Brought from the Lords, 12 June 1883.

THIRD

REPORT

FROM THE

SELECT COMMITTEE OF THE HOUSE OF LORDS

ON

LAND LAW (IRELAND);

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

AND APPENDIX.

Ordered, by The House of Commons, *to be Printed,*
12 *June* 1883.

THIRD REPORT.

BY THE SELECT COMMITTEE appointed to continue the inquiry, commenced by the Select Committee of last Session, into the Working of recent Legislation in reference to LAND in IRELAND and its Effect upon the Condition of the Country; and to whom leave was given to Report from time to time.

ORDERED TO REPORT,

THAT the Committee have met and considered the subject-matter referred to them, and have examined several Witnesses in relation thereto. Their inquiry is not yet concluded, but they consider that it is desirable that the Minutes of Evidence taken before them up to this time, together with an Appendix, should be laid before your Lordships.

10th May 1883.

ORDER OF REFERENCE.

Die Martis, 6° *Martii*, 1883.

LAND LAW (IRELAND).

Moved, That a Select Committee be appointed to continue the inquiry, commenced by the Select Committee of last Session, into the working of recent legislation in reference to land in Ireland, and its effect upon the condition of the country (The Viscount Hutchinson); *agreed to*.

Die Veneris, 9° *Martii*, 1883.

Select Committee on: The Lords following were named of the Committee:

Duke of Norfolk.	Earl Stanhope.
Duke of Somerset.	Earl Cairns.
Duke of Marlborough.	Viscount Hutchinson.
Duke of Sutherland.	Lord Tyrone.
Marquess of Salisbury.	Lord Carysfort.
Marquess of Abercorn.	Lord Kenry.
Earl of Pembroke and Montgomery.	Lord Penzance.
	Lord Brabourne.

The Committee to appoint their own Chairman.

Die Jovis, 5° *Aprilis*, 1883.

Select Committee to meet on Thursday next, at Twelve o'clock.

LORDS PRESENT, AND MINUTES OF PROCEEDINGS AT EACH SITTING OF THE COMMITTEE.

Die Jovis, 12° *Aprilis*, 1883.

LORDS PRESENT:

Duke of Norfolk.	Viscount Hutchinson.
Marquess of Salisbury.	Lord Tyrone.
Earl Cairns.	Lord Brabourne.

Order of Reference read.

It is proposed that the Earl Cairns do take the Chair.

The same is agreed to.

The course of Proceeding is considered.

Ordered, That the Committee be adjourned till Friday, the 20th instant, at Twelve o'clock.

Die Veneris, 20° *Aprilis*, 1883.

LORDS PRESENT:

Duke of Norfolk.	Earl Stanhope.
Marquess of Salisbury.	Earl Cairns.
Marquess of Abercorn.	Viscount Hutchinson.
Earl of Pembroke and Montgomery.	

The EARL CAIRNS in the Chair.

Order of adjournment read.

The Proceedings of the Committee of Thursday, the 12th instant, are read.

The following Witnesses are called in, and examined, viz., Mr. *Hugh Holmes*, Q.C., and Mr. *Robert Reeves*, Q.C. (*vide* the Evidence).

Ordered, That the Committee be adjourned till Thursday next, at Twelve o'clock.

Die Jovis, 26° *Aprilis*, 1883.

LORDS PRESENT:

Duke of Norfolk.	Earl Cairns.
Marquess of Salisbury.	Viscount Hutchinson.
Marquess of Abercorn.	Lord Tyrone.
Earl of Pembroke and Montgomery.	Lord Brabourne.

The EARL CAIRNS in the Chair.

Order of adjournment read.

The Proceedings of the Committee of Friday last are read.

The following Witness is called in, and examined, viz., Mr. *George Hill Smith* (*vide* the Evidence).

Ordered, That the Committee be adjourned till Friday, the 4th of May, at Twelve o'clock.

Die Veneris, 4° *Maii*, 1883.

LORDS PRESENT:

Marquess of Salisbury.	Earl Cairns.
Marquess of Abercorn.	Viscount Hutchinson.
Earl of Pemhroke and Montgomery.	Lord Tyrone.
Earl Stanhope.	Lord Kenry.
	Lord Brabourne.

The EARL CAIRNS in the Chair.

Order of adjournment read.

The Proceedings of the Committee of Thursday, the 26th of April, are read.

The following Witnesses are called in, and examined, viz., Mr. *Romney Foley*, Q.C., and Professor *Thomas Baldwin* (*vide* the Evidence).

Ordered, That the Committee be adjourned till Monday next, at Twelve o'clock.

Die Lunæ, 7° *Maii*, 1883.

LORDS PRESENT:

Duke of Norfolk.	Earl Cairns.
Duke of Marlborough.	Lord Tyrone.
Marquess of Salisbury.	Lord Carysfort.
Marquess of Abercorn.	Lord Kenry.
Earl of Pembroke and Montgomery.	

The EARL CAIRNS in the Chair.

Order of adjournment read.

The Proceedings of the Committee of Friday last are read.

The following Witness is called in, and examined, viz., Professor *Thomas Baldwin* (*vide* the Evidence).

Ordered, That the Committee he adjourned till To-morrow, at Twelve o'clock.

Die Martis, 8° *Maii*, 1883.

LORDS PRESENT:

Marquess of Salisbury.	Lord Tyrone.
Earl of Pembroke and Montgomery.	Lord Carysfort.

The LORD TYRONE in the Chair (in the absence of the EARL CAIRNS).

Order of adjournment read.

The Proceedings of the Committee of yesterday are read.

The following Witnesses are called in, and examined, viz., Professor *Thomas Baldwin*, Mr. *George Wright*, and Mr. *Hunt Walsh Chambré* (*vide* the Evidence).

A DRAFT REPORT is laid before the Committee, and is *agreed to* (*vide* the Report).

Ordered, That the Lord in the Chair do make the said Report to the House.

Ordered, That the Committee be adjourned *sine die*.

MINUTES OF EVIDENCE.

LIST OF WITNESSES.

Die Veneris, 20° *Aprilis*, 1883.

Die Jovis, 26° *Aprilis*, 1883.

Die Veneris, 4° *Maii*, 1883.

Die Lunæ, 7° *Maii*, 1883.

Die Martis, 8° *Maii*, 1883.

Die Veneris, 20° Aprilis, 1883.

LORDS PRESENT:

Duke of NORFOLK.
Marquess of SALISBURY.
Marquess of ABERCORN.
Earl of PEMBROKE AND MONTGOMERY.
Earl STANHOPE.
Earl CAIRNS.
Viscount HUTCHINSON.

THE EARL CAIRNS, IN THE CHAIR.

MR. HUGH HOLMES, Q.C., is called in; and Examined, as follows:

1. *Chairman.*] YOU are one of Her Majesty's Counsel in Ireland?
Yes.

2. And a Bencher of King's Inn?
Yes.

3. And you were Solicitor General under the late Government?
Yes, for two years, or almost so.

4. You have had large practice in the Common Law and Chancery Courts in Ireland, I believe?
I have had very considerable practice for many years past.

5. Will you state to the Committee in what way principally you have become acquainted with the working of the Land Commission?
Prior to the passing of the Act of 1881 I had very large experience in the working of the Act of 1870. During the seven or eight years that followed the passing of that Act I was one of the leading counsel on the north-west circuit, on which I think more cases arose under that Act than in any other part of the country, and I think there was hardly any of those cases in which I was not counsel. Probably in consequence of the experience I thus gained, since the passing of the Act of 1881, I have advised or acted as counsel in many important cases that have come before the Land Commission itself. I am not speaking of the Sub-Commission Courts, but of the Land Commission Court, to which those cases have come either by way of appeal, or by way of law argument.

6. Where does the Land Commission, the Dublin Court, sit?
The Land Commission Court sits in Upper Merrion-street, in a house that was purchased shortly after the Act was passed.

7. Upper Merrion-street is on the south side of Dublin, is it not?
It is on the south side of Dublin. It is about a mile and a half distant from the Four Courts.

8. A mile and a half from the place where the other Courts sit?
A mile and a half from where the other Courts sit. All the legal business in Ireland, at least all the Dublin portion of it, is now concentrated in what is called the Four Courts. Within the last few years the Land Division of the High Court of Justice, the Probate and Matrimonial Division, and now the police courts, have been removed there, so that it may be said that all the legal business of the country is transacted in the Four Courts. In addition to that, as barristers in Ireland have not chambers as they have in London, they are in

the habit of assembling in a large legal library in the Four Courts each day, so that it is the place in which business of every kind can be best conducted.

9. Is the place of sitting of the Land Commission in Merrion-street convenient or otherwise?

From the time the Commission commenced to sit, it has been the subject of very frequent complaint both by counsel and solicitors. As I have already said the bar of the country are assembled in the Four Courts, where they are engaged in their ordinary avocation, and it is of course exceedingly inconvenient for any counsel who has other business to do to leave that in the course of the day to go a mile and a half and return a mile and a half after he has transacted his business in Upper Merrion-street; and one result of that undoubtedly is, that fees are larger than they otherwise would be. Counsel, or at all events counsel of position, will not undertake to attend unless they receive something in the nature of a special fee.

10. So that it is not merely an inconvenience to counsel, but a loss to the suitor?

It is a loss to the suitor. In addition to that it has been very frequently the cause of adjournments; in point of fact I may say that, according to my experience, adjournments of cases are the rule rather than the exception, for this reason, that when counsel on one side can attend, it is very frequently found that counsel on the other side cannot attend.

11. There are frequent adjournments, by reason of the absence of counsel, you mean?

By reason of the absence of counsel.

12. Is there a sitting of the Land Commission every day in the week, or only on certain days?

On Tuesday and Friday in each week there is a sitting of the Land Commission in their Court in Upper Merrion-street.

13. And on those days, Tuesday and Friday, are the cases attended by counsel generally?

I should think that on every Tuesday and Friday there are several cases in which counsel attend. Of course there is a great deal of routine business that counsel is not required in at all, and that is attended to by solicitors; but I may also mention that the solicitors' profession find the same inconvenience that counsel do, and they are at the present time taking action in reference to it, by making a representation to the Executive with regard to the great inconvenience of it.

14. I suppose the solicitors are generally engaged in the neighbourhood of the Four Courts also?

They are engaged in the neighbourhood of the Four Courts, because not merely are the law courts held there, but all the legal offices of the country are there.

15. Is there any reason why the Land Commission should not sit at the Four Courts; would they have the accommodation there?

It has been pressed upon them several times since they commenced their sittings to hold their court in the Four Courts. The answers that have been given to those representations are two. They say, in the first place, there is no particular court allocated to them in the Four Courts, and that it might be difficult for them to get such a court; in the second place, they say the Registrar's staff and offices are in Upper Merrion-street, and it would be difficult for them to hold their judicial sittings at a distance from them. In answer to that it has been pointed out to the Commissioners that on almost every day in the year they could secure a court in the Four Courts. We are all of opinion, at least the gentlemen of the bar in the country are of opinion, that there would be no difficulty about that; and even if at the present time there is no available court there, a new court could be constructed without much difficulty. Then, as regards the separation from their officers, no doubt that is an inconvenience; but at the present time the Probate and Matrimonial Division of the High Court of

of Justice holds its sittings in the Four Courts, while all its officers, Registrars included, have their offices at a very considerable distance from there; and although that may be an inconvenience, it is certainly not anything like the inconvenience it would be if the Probate and Matrimonial Division were to sit where the Registrars are.

16. Has the Land Commission ever sat at the Four Courts?
On two occasions, when they were strongly pressed by the bar; they sat at the Four Courts for a few days on each occasion, but they returned to Upper Merrion-street without assigning any particular reason for so doing.

17. Viscount *Hutchinson.*] Was that in any particular case; it was in one very big case, I suppose?
No, it was for hearing such cases as were listed.

18. It was not done because any particular case was going on, but in deference to the opinion the bar?
In deference to the opinion of the bar at the time.

19. As a sort of experiment?
As a sort of experiment. As far as we could observe, there was no reason why it should not have been continued.

20. *Chairman.*] With regard to the Sub-Commissions, we were told that there were from time to time changes made in the composition of the Sub-Commissions; what is your opinion of the convenience or inconvenience of those changes?
Speaking of the north of Ireland, the part of the country in which I have the greatest experience, I think that the changes that have been made from time to time have been very inconvenient.

21. Have the changes been frequent?
The changes have been very frequent. In some of the counties there have been at least three or four different sets of Sub-Commissioners.

22. Already?
Already since the passing of the Act; and in no county in the north of Ireland are there the same Commissioners as there were at the start; indeed I may say that in no county in the north of Ireland, with the exception of Donegal, is there a Sub-Commissioner who has been there all through. In Donegal one Sub-Commissioner (the legal Sub-Commissioner), Mr. Ulick Bourke, has been sitting since he was appointed Sub-Commissioner.

23. So far as regards local knowledge of the estates in a particular part of the country, these changes prevent the Sub-Commissioners having any continuity of knowledge, do they not?
They have undoubtedly that effect. I am not giving my own opinion upon this subject, but I am giving the opinion that I know very considerably exists, that a change in the constitution of a Sub-Commission has the effect of depriving suitors of the advantage of that local knowledge in connection with the land, which a suitor is entitled to.

24. And does it lead in practice and according to your observation to a want of uniformity in the current of the decisions?
Undoubtedly it does; within my own experience I have found (and other counsel have found the same thing) in the same district of country, rents settled upon what must have been an entirely different standard by successive Sub-Commissions.

25. What effect do you consider that has upon the possibility, or the facility, of making agreements out of Court?
One effect of it beyond a doubt is that it makes it exceedingly difficult for landlord and tenant to arrange out of Court; the complaint is made (I have heard it made principally on behalf of the landlords, though I see no reason why it should not be equally made by the tenants) that they have no standard

by which they can settle witb other tenants upon the estate who are anxious to go into Court, but who would also be prepared to take a fair settlement.

26. Have you observed at all in those changes in the composition of the Sub-Commissions, what has been the tendency of the reductions; have the reductions under successive changes become less, or have they become greater?

In my experience each succeeding Sub-Commission has put the standard of rents lower than the preceding one; that certainly is the result of my own experience, and I have heard it stated by other counsel that it is the result of theirs; of course there may be exceptions to that, but I can say tbat in County Tyrone, in County Armagh, and in County Derry, there has been, as far as one can judge, upon tbe same estates, a lowering of the rent by each successive Sub-Commission.

27. A greater amount of reduction, you mean?

A greater amount of reduction.

28. It has been stated occasionally perhaps in Parliament that the reductions of late have been smaller in amount than they were originally; is that according to your experience?

It is not according to my experience in the North of Ireland; the contrary is my experience in the North of Ireland. Taking a particular district, or taking a particular estate, where, as far as I could judge, the circumstances were the same, and where therefore you would assume each succeeding Sub-Commission, assuming it was acting upon the same principles, would lower the rent to the same extent, I have found that lately the reductions have been greater than they were at first. I may also add that I do not know of any case, either from my knowledge, or from being told of it in the North of Ireland where tbe contrary is the case.

29. Viscount *Hutchinson.*] Speaking of the North of Ireland, you have practised so long in Ulster that you have seen every different sort of composition of the Sub-Commissions from the first, the original composition of one Legal Commissioner and two Lay Sub-Commissioners, then with valuators, and then the present system of one Legal and four Lay Commissioners, have you not?

I have; but my experience of the Sub-Commissions, although I have occasionally appeared in the Sub-Commission Courts, has been more particularly on appeal from them; of course in cases in which I have been engaged myself, and also from reading cases before the Appellate Court, I have had an opportunity of judging.

30. It would be interesting to know whether there has been any very great variation in the different classes of decisions given by tbe different classes of Sub-Commissions?

Take for instance County Tyrone and County Armagh; the same Sub-Commission sat in both those counties for some time after the passing of tbe Act, and that Sub-Commission in both counties reduced rents, in different proportions, in different parts of the county, as one would expect. It was succeeded by another Sub-Commission in each county, differing entirely in its composition from the former one, and unquestionably, that Sub-Commission, in the same district, made the rents lower than the previous Sub-Commission had done. There is now, in Tyrone, a third Sub-Commission, and, so far as I am able to judge, that Sub-Commission is reducing rents lower still in the same district.

31. And this last Sub-Commission is the last style of Sub-Commission, consisting of four Lay Commissioners and one Judicial Commissioner?

It is.

32. I suppose it is perfectly possible under a Commission like that, that the same estate, and precisely the same class of land, may be treated in a perfectly different manner?

I know cases where, so far as I can judge, the circumstances were precisely the same, on different holdings on the same estate, yet where a much greater reduction has been made by one Sub-Commission than had been made by its predecessor.

predecessor. I also know one instance, but I only know one, in which, under the present system (where there are four Sub-Commissioners, and two act in the case of certain holdings, and two act in the case of certain other holdings respectively), there has been a marked contrast between the rents fixed by the one two and the rents fixed by the other two.

33. Marquess of *Abercorn.*] Was that in Donegal?
In Donegal.

34. I think I know the case?
I think your Grace does.

35. Was it a case in which there was 15 per cent. difference?
There was a very large difference.

36. Viscount *Hutchinson.*] So that the difference is this, that whereas formerly the different Sub-Commissions varied, now the decisions of one Sub-Commission vary considerably?
They may vary, and in one instance, as I have mentioned, I have known them to vary to a very great extent.

37. *Chairman.*] With regard to appeals; you have had considerable experience, we understand, in the details of the appeals that have come before the Land Commission?
I have.

38. And, generally speaking, what have you found to be the result of an appeal; have you found that there has been much change made in the orders of the Sub-Commissioners?
My experience is, and I think I can say that it is the experience of all counsel, because it is a matter we have discussed from time to time, that the result of the appeals is to confirm the judgments of the Sub-Commissioners. It is true that occasionally the judicial rent fixed by the Sub-Commissioners is slightly raised, or slightly decreased, but the variation is, as a rule, so trifling that it can hardly be called a disturbance of their judgment; and according to my experience, and, I think, the experience of others, that variation does not seem to be decided upon any principle.

39. How many Sub-Commissions are there now?
I am unable to say as regards the whole of Ireland.

40. You do not remember the number?
I do not remember the number.

41. There is a very considerable number now, is there not?
There is a very considerable number.

42. Is it your opinion, or the general opinion of the profession, that there is much uniformity in their decisions?
My opinion is, and I think it is also the general opinion of the profession, that there is no uniformity in the decisions. I have already mentioned that successive Sub-Commissions in the same district, and also upon the same estates, have varied where, so far as I could judge from the character and circumstances of the holding, there was really no difference in the old rent, in other words where if the old rent were to be changed, or altered, it ought to be altered in the same degree in each case. I have already mentioned to your Lordship that even in the same districts and the same estates successive Sub-Commissions have made great changes. Besides this, the same Sub-Commission often differs from itself.

43. The same Sub-Commission, under the same constitution, differs from itself, you say?
It differs from itself.

44. And I suppose we may assume that your view is that the Sub-Commissions differ from each other?
They differ from each other in the same way.

 45. Notwithstanding

45. Notwithstanding that, your experience is that there is great uniformity as to cases on appeal being confirmed?

There is no doubt of that, I think.

46. Marquess of *Abercorn.*] Have you found that the head Commissioners pay any attention to the valuators of the higher Court in deciding appeals?

They always refer to the reports made by the Court valuers, but I have, up to the present time, been unable to ascertain what use they make of them.

47. *Chairman.*] We will come in a moment to the Court valuators, but before we go to that subject let me ask you this question. In the judgments of the Court of Appeal has there been anything laid down, in the way of observation or a declaration of principle, which would give an indication of the grounds upon which the Land Commission Appeal Court is disposed to proceed?

According to my experience the defect, if I may be permitted to use the expression, in the Court of Appeal is, that there has been an abstention from announcing any principle. I may perhaps illustrate this, if I mention the mode in which the Land Commission delivers its judgments. A number of cases are heard by the Commissioners, probably 40 or 50, and the hearing of those cases extends over three or four days. On probably the fourth or fifth day, the Chief Commissioner delivers judgment in one case after another, confining, as a rule, his judgment to mentioning what the old rent was, what the judicial rent was, as fixed by the Sub-Commission, and what variation, if any, that Court has placed upon the judicial rent. The judgments never go beyond that, except, it may be, where a question of law, applicable to a particular case, has been raised, when of course it is discussed, and decided; but my experience is, that those questions that are so discussed and so decided, are not questions of general interest; they are merely questions that affect one particular case which comes before the Court; such, for instance, as where a landlord raises the point that the tenant is not within the Act at all, inasmuch as the holding is held under an agreement for a lease.

48. Viscount *Hutchinson.*] Before the Sub-Commission that legal point might perfectly well arise?

It often does arise.

49. In such cases is the decision of the legal point left entirely to the legal Commissioner, or do the other Commissioners take part in it?

I understand that a legal point of that kind is decided by the legal Commissioner. I have heard of cases in which the lay Commissioners (if I may call them so) have differed, but they have been very exceptional cases, and I think it is understood that it should be decided by the legal Commissioner.

50. You do not know of any case where the decision of the legal Commissioner on a point of law has been over-ridden by his lay colleagues?

Not in my own experience.

51. *Chairman.*] Now, to return to the Land Commission, you say that you are not aware of the Commissioners having laid down any general principle, or any principle that would affect a number of cases; has anything been said or decided by them as to the principles on which they fix a fair rent in cases affected by the Ulster custom?

A great deal has been said on the subject before the Land Commission, upon appeals, but so far as I am aware no decision has ever been given.

52. I suppose they hear a good deal about it, on both sides, in argument?

They hear a good deal about it on both sides.

53. But the oracle you say never responds to the argument on either side?

I think if any counsel at the present time in Ireland was asked to state, as the result of the decisions already given, what the state of the law is, he would be wholly unable to do so, inasmuch as he cannot find any judicial assistance upon that point. I may illustrate the class of question that is constantly arising in Ulster, and that is constantly pressed upon both the Sub-Commission Court and the Chief Commission Court. A tenant applies to have a fair rent fixed for his holding, and it is proved that in the year 1878, or in the year 1879, both of

of which years were, in Ireland, very bad years for persons engaged in agriculture; the tenant bought a yearly tenancy, subject to the present rent, from the preceding tenant, at a very high price indeed, a price which far exceeds any improvements that it is proved have been made upon that holding by the tenant; under those circumstances the landlord's counsel will call on the Sub-Commission Court, and also the Chief Commission Court, to rule that in fixing a fair rent for that holding they ought only to have regard to the improvements made by the tenant, and that, in point of fact, the interest of the tenant in the holding is what his improvements have been, and inasmuch as that tenant himself has paid a much larger sum of money at a depressed time than what those improvements were valued for, that it is conclusive evidence that no alteration, at all events in the way of reduction, should be made in the rent. The counsel for the tenant, on the other hand, will say at what price he has purchased his tenant right; that that tenant right was secured to him by the Act of 1870; that that represents his interest in the land, and that you are not to confine that tenant right to improvements at all, but that there is something over and above that which never has been clearly defined in argument, but which the Court is called upon to regard. Now, according to my experience, that is a point which probably applies to every holding in Ulster, or to the greater number of the holdings, at all events. It has never been decided by any Court, and it is impossible for any one to say, from the judgments given by the Court, what view they take of it. I, myself, would infer from the mode in which the rents are fixed, that both the Sub-Commission Courts and the Chief Commission Court have regard to something over and above the improvements, but what that something is, or how it is valued, I have never been able to ascertain.

54. I should just like to pursue that a little further; in the case of a holding which is not subject to the custom of Ulster, I suppose on both sides there is a controversy as to what the character and value of the improvements by the tenant have been?
That is so.

55. Both sides would enter upon and treat that as a question at issue, would they not?
Quite so.

56. In the case of a holding which is subject to the custom of Ulster, has it ever been decided by the Commission, one way or the other, that the improvements are a material thing to look at?
It probably has not been decided in so many words, but inasmuch as in every single case that I have ever known, where a holding subject to the Ulster custom has been brought into Court, a very large amount of evidence indeed has been given as to the improvements made by the tenants, and inasmuch as that is all listened to carefully, and noted by the Commissioners, I presume they consider that it is very material.

57. But I suppose in the case of a holding subject to the custom of Ulster, where the tenant was not able to give any evidence about improvements, he would claim his tenant right just the same, would he not?
He would claim his tenant right; he would say "I paid so much for it, and that represents my interest in the land."

58. Are we to take it that in the case of a holding subject to the custom of Ulster, both sides enter upon the question of improvements, and give evidence for and against it without their knowing whether it is a real element in the case or not?
The tenant invariably does, although I have again and again heard the tenant's advocate say that the improvements are a matter of very small importance compared with the tenant right; the landlord, on the other hand, does, because the landlord always contends that the improvements are the only thing that should be regarded.

59. Yet neither of the litigants is aware of what effect it has upon the Court?

So far as any expression of judicial opinion is concerned, neither party knows what effect it has; as I have already said, I infer that the Court pays attention to improvements, and something over and above the improvements; I infer that from the amounts at which they fix the judicial rent, but what that something may be I have never yet been able to ascertain.

60. Has anything been said by the Appeal Court of the Land Commission to indicate their opinion as to the character of improvements, such, for example, as drainage improvements, alteration of fences, and so on, and as to whether they are improvements which may be looked upon as permanent, or improvements which come to an end after a certain time?

I may say, in general terms, that there is almost a total want of judicial decision upon such questions as your Lordship has referred to; in almost every case, in my experience, the tenant proves three classes of improvement. He proves, in the first place, the making of drains; I have hardly ever known a case in which drainage was not represented as a very important improvement; in almost every case in my experience he states as an improvement that he has removed so many perches of fence, and that he has erected so many perches of fence, giving the exact measurement, and also stating the price that that operation cost him.

61. He claims that as an improvement both ways, that is to say, when he puts up a fence and when he takes down a fence?

When he puts up a fence and when he takes down a fence; for instance, he will say, "I removed 300 perches at 1*s.* 6*d.* a perch, and I erected 250 perches at 2*s* 6 *d.* a perch," those sums are noted by both the Sub-Commission and the Chief Commission when the case comes before them; that is the second class of improvements; the third class of improvements which we find in almost every holding that comes into court, at least in the north of Ireland, is what is called reclamation of waste land; those are the three classes of improvements that are of constant occurrence; it is a very rare case in which evidence is not given in reference to these three classes; there are of course, in addition, certain other improvements that may be called more or less exceptional; I do not refer to them; in each of those three classes of cases a very important question arises; it has been contended on behalf of the landlords, in reference to drainage, that drainage works properly carried out, will, after a certain period, repay themselves, the rent not being raised in the meantime; and that the court ought, in estimating what is the value of the improvement that has been carried out by the tenant, to have regard to the returns that he has been obtaining from that drainage work for a number of years; as regards the fencing, it is constantly contended on behalf of the landlord (I have done so again and again myself) that the mere proof that so many fences have been removed, and so many fences have been erected, is not evidence of an improvement at all.

62. Without more?

Without more; it may be an improvement under certain circumstances, but it is contended that that evidence, and that evidence alone, is no evidence of an improvement; it merely shows that one tenant, for reasons which perhaps may be peculiar to himself, desires to have the holding divided in a different way from his predecessor, and it is said that unless some substantial evidence is given to show that the alteration of fences is an improvement, and to what extent it is an improvement, that should not be regarded as an improvement at all; then as regards the third class of improvement that I referred to, the reclamation of waste land, it is contended upon the evidence given by the witnesses that the greater part of what is called reclamation in the north of Ireland is merely an ordinary agricultural operation, conducted, perhaps, with certain difficulty; for instance, the land is rough, it has never been converted into arable land, it has been used for grazing as long as the memory of man goes back, and the tenant thinks that he may make something by taking a crop from that land; it is rather difficult to plough such land, and the first year it requires a considerable amount of labour to remove the stones from it, and probably there are some holes that have to be filled up, but those are ordinary agricultural operations, conducted with more or less difficulty

difficulty having regard to the peculiar character of the soil upon which they are carried out.

63. Does the tenant condescend upon the particulars of the reclamation? Does he describe what it is?

What the tenant generally says is, "I reclaimed from being totally barren land, three, four, or five acres, as the case may be, and I put down the cost of such reclamation at sums varying from 10*l.* to 20*l.* an acre." I have rarely heard it put beyond 20*l.*, but I have often heard it put to that extent; I have rarely heard it put at less than 10*l.*, but when they are cross-examined it is frequently found that the reclamation is very much of the character I have now described.

64. Cutting down the rank weeds, filling up the holes, and clearing away the stones?

The filling up of the holes is a great thing they rely upon; in addition to that, there is subsoiling land brought into tillage; and there is required for the first few years an extra quantity of manure, but when it has been spoken of as having a reclamation value of 10*l.* to 20*l.* an acre, it has been contended on the part of the landlords that that is entirely an extravagant statement, and that it should not, at all events to the extent to which it is put forward, be regarded as an improvement. I am not aware that in any case where a contention of that kind has arisen (and it arises in every case) it ever has been dealt with either by the Sub-Commission Court or the Chief Commission Court.

65. Viscount *Hutchinson.*] It has not been dealt with one way or the other, you think?

It has not been dealt with one way or the other. They simply state, as I have already mentioned, "We fix the judicial rent at so and so," or, "We vary the judicial rent so much," but to what extent they have done so, by reason of having given credit to the tenant for improvements proved by him, either as a matter of principle, or as a matter of figures, is never declared.

66. *Chairman.*] This evidence is given, in the first place, before the Sub-Commission?

It is given, in the first place, before the Sub-Commission.

67. When it comes up to the Court of Appeal what is done now?

The appeal is a re-hearing on either the same evidence, or additional evidence is given before them; as a rule it is the same evidence.

68. Are the witnesses brought up to Dublin?

No, the Chief Commission Court holds sittings in various parts of the country for the purpose of hearing the appeals, and the same witnesses that attended before the Sub-Commission Court, then attend before the Chief Commission Court, or additional witnesses, if it is thought by either party that additional witnesses are required.

69. You were asked just now by the noble Duke with regard to official valuers; we shall be glad to have some information about that; what is the connection between official valuers and the Land Commission or Appeal?

As soon as the Land Commission began to hear appeals, they appointed certain gentlemen to act as official valuers. Your Lordship is aware that there is a section in the Act which enables the Court to appoint a valuer, but as far as I can judge, the appointment of those gentlemen was not under that section, for that section seems to contemplate the appointment of a valuer for the purpose of a particular case, and at the cost of one or other of the litigants. But these are gentlemen who are appointed to hold an office of a more or less permanent character, and it is understood that one of those valuers will, previous to the hearing of appeals in a particular place, visit every holding that is the subject of appeal, and make a report in reference to it. That report is before the Chief Commissioners before they commence their sittings.

70. He reports, I suppose, the state of the farm as he finds it?

The mode in which the valuer prepares the report, as I understand, is this.

He does not value the buildings, and I may say that that is in accordance with the mode in which valuations have always been made, at least in the north of Ireland, for, except in exceptional cases, buildings are looked upon as the property of the tenant. He does not value the buildings. He then values (as I have heard the Chief Commissioner state again and again) the land as he finds it; but that cannot mean, I should think, the land as he would find it in the landlord's hands, because I have seen on different occasions in the report of a valuer, when he says, "I consider the fair rent to be so and so," that he adds, "I find this will leave the tenant a substantial interest in the holding." I have seen that occasionally in the reports made by the court valuers, from which I assume that when it is said they value the land as they find it, they do not value the land as if it were in the landlord's hands, and as if the landlord were to bring it into the market and get what I may call a fair market price for it, for if that were so, I could hardly understand what would be meant by the valuable interest.

71. They do not value it as if it were out of tenancy, do they?

They do not value it as if it were out of tenancy. Then in addition to that they state in the report what their opinion is on any alleged improvements.

72. But what do they know about alleged improvements?

The tenant, as I understand, when these official valuers go over the land, points out very frequently to them the improvements which he subsequently proves in Court. The valuers then are supposed to give their own opinion as to whether those things actually exist, and as to whether, if they do exist, they are an improvement to the land. My experience is that the report of the valuer, if it is to be taken as correct, shows that the evidence given by the tenant in reference to improvements is of a very extravagant character indeed, for I have seen it stated again and again in the reports that they see no evidence of the very extensive drainage that is described, or of the very great reclamation that is alleged on behalf of the tenant. Those are the reports, and as I have already mentioned, those reports are before the Chief Commissioners when they commence to hear the appeals.

73. Are they furnished to both sides?

At first the Chief Commissioners laid down a rule that those reports should be seen by neither party. In the first appeal, I think, that was heard before them, I argued very strenuously that each party had the right to see those reports, and after having given a considerable amount of attention to the discussion the Court decided that each party should see the reports, but not until the evidence had terminated.

74. Viscount *Hutchinson*.] So that you were not allowed to cross-examine upon them?

Under no circumstances are the official valuers cross-examined, or allowed to be cross-examined, but neither party had the opportunity of seeing the reports until the evidence was terminated. Within, however, the last three or four months the Chief Commissioners have made a rule that every landlord or tenant may before the hearing see the result of the report. That is what the valuer fixes the fair rent at without the various statements in it. It was stated that the object of their making that rule was to enable the landlord or tenant, as the case might be, after he had served his notice of appeal, to decide whether it would be prudent for him to prosecute his appeal or not, or whether it would be a desirable thing for him to withdraw it.

75. You say that the result of the report can be seen; you mean the bare figures?

The bare figures.

76. None of the details?

The observations, for instance, about improvements I understand are not furnished, but simply the bare figure which the valuer would fix as the judicial rent.

77. How long is it since that change has been made?

It

It was in operation in the month of January last, and I think it was introduced about the month of December.

78. The Committee have had before them the form of report which, we understood at one time, it was open to the parties to see; but that is stopped now, as I understand?

The parties can see the entire report at the stage I have already mentioned to your Lordship; that is, after the case has terminated; but the change that was made was to give the parties, assuming they applied for them, the bare figures previous to the hearing of the appeals, so as to enable the litigants to come to a conclusion as to whether it would be desirable to prosecute the appeals. For all those reasons, it is obvious that the Chief Commissioners attach very great importance to those valuers' reports; but how they act upon them, or in what way they attach importance to them, I have never been able to ascertain, and I may mention also why it is that I am in difficulty about it.

79. *Chairman.*] What has been your observation as to the effect of those official valuers' reports upon the judgment of the Court?

I have never been able to ascertain in what way it has affected the judgment of the Court; for I have observed, in a great many cases where the official valuer's report was very near the judicial rent that the Court has stated, "We cannot disturb the judicial rent in this case, and if anything strengthens us in that view, it is the fact that we have here the report of the official valuer which fixes the fair rent within a few shillings of what has been fixed by the Court below." But I have also observed at the very same sitting, and probably on the same estate, a number of cases in which the official valuer has placed his fair rent at a sum much in excess of the judicial rent, and often in excess of the old rent; and in those cases too I have found that the Chief Commissioners have either not disturbed the judicial rent at all, or disturbed it to a very small extent; and the reason that they generally give for so acting, whenever they do give a reason, is this, "That we must take the improvement of the tenant into account, which the official valuer has not done." It would seem to me if that were so that it ought to be taken into account in the first class of cases to which I referred, where the official valuer came near the judicial rent, and where it would have the effect of lowering the judicial rent, so that the result, according to my experience, is that the report of the official valuer does not affect the judgment of the Court above to any appreciable extent, and that, therefore, the giving a copy of that report to the litigant sometime before the hearing of the appeal is no guide to him whatever.

80. Marquess of *Abercorn.*] Have you not known many cases where the Court valuator's report was considerably above the landlord's rent, and yet the Court of Appeal reduced it very much below the landlord's rent?

I have mentioned that. Very frequently in my own experience the Court valuer's report has been not merely in excess of the judicial rent, as fixed in the Court below, but considerably in excess of the old rent, and yet they have allowed the judicial rent, much below what the old rent was, to stand. I have known very many instances of that.

81. Duke of *Norfolk.*] Does the Court valuer never go into the question of improvements?

Except in the way I have already mentioned. He states what his opinion is as regards the improvements?

82. Marquess of *Abercorn.*] Does not the Court valuer usually state that he has taken the tenant's interest into consideration; I do not mean the tenant's right, but the tenant's interest?

What I have seen in the Court valuer's report occasionally, is when he fixes the fair rent at a particular sum, he adds, "and I believe that this leaves the tenant a valuable interest in his holding."

83. *Chairman.*] Is that in cases subject to the custom of Ulster?

In cases subject to the custom of Ulster.

 84. Those

84. Those are the cases you speak of?

Those are the cases I speak of. Very often no such observation is made, but I assume that although the words may not be used in every case the principle is acted on in every case.

85. Are you able to say one way or the other whether in cases subject to the custom of Ulster, the official valuers value with reference to it, or whether they do not?

I am wholly unable to say. If I were to judge by their figures I would conclude that they must have regard to the Ulster custom in placing the rent upon the holding.

86. If they value with reference to the Ulster custom the valuation might be right or wrong, but it would profess to cover improvements, would it not?

It ought to do so. I may mention as illustrative of what was always considered in the North of Ireland the mode of fixing a fair rent, where a holding was subject to the Ulster custom, my experience in the Land Court under the Act of 1870; there the question of fair rent frequently arose in this way:—The landlord in the case of a holding subject to the Ulster custom was desirous of raising his rent. He applied to the tenant for an increase of rent. The tenant said, "I will not pay you the rent that you demand, because the effect of that rent would be to destroy my tenant right." Under those circumstances the landlord would serve a notice to quit. The tenant would file his claim for compensation in the Land Court, and the contention under the Act of 1870 prior to this Act of 1881 coming into operation at all, would be whether that rent was a fair rent having regard to the Ulster custom.

87. But, under the Act of 1870, am I right in saying that the tenant could not claim both under the custom of Ulster, and also for improvements?

He must make his election; but, invariably he, in my experience, elected to claim under the Ulster custom, because the result of the decisions was to give him a larger amount of compensation when the claim was made under the Ulster custom.

88. Is there anything in the present Act which should alter that?

Nothing that I am aware of.

89. A tenant claiming under the custom of Ulster may or may not refer to his improvements as leading up to what he is entitled to value his tenant-right at, but he cannot treat the two things as separate; is that so?

He cannot. At the present time if a tenant were coming into the Land Court to claim compensation (which he may still do notwithstanding the passing of the Act of 1881) he could not claim compensation both for the Ulster custom and for his improvements. He must make his election as to whether he will claim one or the other. In the class of cases to which I have referred, the mode in which the evidence was given as regards a fair rent, was this: a valuer who was in the habit of valuing in the district, would be produced on behalf of the landlord, and he would state, "I think the fair rent, having regard to the Ulster custom and the mode in which the rent is fixed under the Ulster custom in the district, is so much," and no evidence was given with reference to improvements at all. A witness on behalf of the tenant would say, "In my opinion the rent should be so much"; there would be nothing said about improvements there at all; they would simply have regard to the Ulster custom, and that alone, and the tribunal that would be called upon to decide, would decide upon the evidence given by one party and the other what the fair rent should be. Now my belief is, but I can only state it as a belief, and as my own inference from the figures, that that is the way the Court valuer values in Ulster; that he values as the valuers used to do in old times. He fixes the fair rent, having regard to the fact that the land is situated in a district where the Ulster custom exists, and that the holding is subject to that custom. If I am right in conceiving that that is the mode in which he fixes his fair rent, then there should be no deduction made from it whatever, because in fixing his fair rent, having regard to the custom, he is not merely giving the tenant the full allowance for improvements, but for something more than improvements.

90. What

90. What is the rule of the Appellate Court of the Land Commission with regard to the costs on appeal?

They have laid down a rule that if the decision of the Sub-Commission Court is affirmed, the landlord must then pay all the costs. If the judicial rent, as fixed by the Sub-Commission Court be increased, but not to the extent of the old rent, each party will bear his own costs; and that if it be increased to the old rent, or to a sum in excess of the old rent (of which I never knew an instance), the landlord will get his costs from the tenant.

91. Viscount *Hutchinson.*] So that suppose an old rent of 70*l.* a year were reduced to 55*l.*, and the Appeal Court put it up again to 65*l.*, the landlord would have to bear the costs?

That is the general rule of the Court, that he would bear his own costs.

92. He would bear his own costs, do you say?

The landlord would bear his own costs, and the tenant his costs; each party would bear his own costs.

93. Marquess of *Salisbury.*] The costs do not follow the event you mean?

The costs do not follow the event in that case. The landlord appeals against the judicial rent, the rent is raised substantially, but not to the extent of the old rent, and under those circumstances the Court says the landlord must bear his costs of the appeal, and the tenant his costs.

94. If ever a case should happen in which the judicial rent, as fixed by the Court of Appeal, is equal to the old rent, in that case the tenant I suppose pays all the costs?

In that case the rule is that the tenant pays all the costs.

95. Viscount *Hutchinson.*] Have there been no cases where appeals have reconstituted the old rent?

I am aware of one or two, but they are exceedingly exceptional.

96. *Chairman.*] Have the reductions that have come under your observation in Ulster shown much the same per-centage, or have they differed?

They have differed very much in different parts of the country, and whether you take an old rent that has been paid for 40 years as a standard, or whether you take a rent that has been only paid for 10 years (an increase having been made 10 years ago), as a standard, or whether you go outside the rent altogether and take the poor law valuation as a standard, there is, in the decisions in different parts of the country, and on different estates, the greatest difference, and the difference cannot be reconciled with any of those standards. Perhaps your Lordship would allow me to say that in the decisions of both the Sub-Commission Courts, and the Court above, when they are giving judgment the litigants are never supplied by the Court with what I may call the figures or the materials upon which the judgments are based; the result of that is that it makes it exceedingly difficult for landlord or tenant to know what will happen in other cases; according to the mode in which evidence is given now before the Sub-Commission Court and the Chief Commission Court, the fair rent as fixed by those Courts is a deduction from several sets of figures; for instance, what would be considered the outside letting value of the land, what would be the value of the tenant's improvements, and what would be the value of the tenant's interest; there is contradictory evidence given on those various points; but according to my experience neither in the Court below nor in the Court above does that Court state what it conceives in figures is the result of the evidence so given, and as far as the litigants can understand, the Court, although they take down the figures, pay no regard to them whatever, nor do they give any judicial opinion as to whether one side or the other may be accurate in the figures they give.

97. Viscount *Hutchinson.*] In fact you are led rather to suspect the doctrine of averages, are you not?

Of course I do not know how the judicial rent is ascertained, but the materials from which it is derived are never given to the public.

 98. With

98. With regard to that question that you were alluding to just now about particulars, that is to say the difficulty for a landlord to discover under what particular heads the tenant claims reduction for improvements, and that sort of thing. I understand that if the tenant does not furnish particulars of his own accord, the landlord has the right to call upon him to furnish particulars?
The Court will make an order in most instances upon the tenant to supply particulars of his improvements.

99. That applies to appeal cases as well as the others, I suppose?
Certainly.

100. When the tenant has furnished this schedule of particulars, or whatever it is, is he bound merely to plead upon those materials which he furnishes, or may he spring a mine upon the landlord with new facts at the Court itself; will the Court restrict him to the particular points he has mentioned in his schedule of particulars?
According to my experience the tenant is not allowed to go beyond the particulars he has furnished; as a rule those particulars are so exceedingly extensive that it would be very difficult for him to go beyond them.

101. And they are vague also, I suppose?
They are vague also, but certainly in cases where it has been attempted to introduce some further item of improvement, it has been ruled that he is not entitled to do so according to my experience.

102. Have you ever had to argue before the Chief Commissioner's Court for a rule to take a case to take to the Court of Appeal on a legal point?
Make an application to the Court, your Lordship means.

103. Yes?
I have made applications on different occasions to state a case, and it has been very frequently done by other counsel.

104. Is it always granted in every case?
The opinion that the bar generally have formed upon the subject is, that the Court is very reluctant to allow a case to be stated for the Court of Appeal. It is very difficult, having regard to the vague way in which the decisions are given, to say in any particular case whether a question of law has been decided or not, or whether the case has been decided on a question of fact, and the answer that we generally get when we apply to have a case stated on a particular point of law is, that that point of law is immaterial, for they say "we have decided this case upon a question of fact."

105. You were engaged in the Adams *v.* Dunseath case, were you not?
I was. I was counsel in that case.

106. I suppose similar cases have arisen in your knowledge before the Chief Commissioner's Court?
Similar cases have arisen in many parts of the country.

107. Do you find any difficulty, or do you find that the Sub-Commissioners understand that decision, or that they act upon it to any very great extent?
My opinion is that the decision in Adams *v.* Dunseath has not in the smallest degree affected the fixing of judicial rents. I think the plainest proof of that is, that in the cases as to which the case itself was stated, and in relation to which the decision was given, when the Land Commission Court came to apply the decision to the actual cases that they had decided themselves, they did not alter their previous determination.

108. We know from what we read that some of the Commissioners, previous to the arguing of Adams *v.* Dunseath, anticipated more or less the decision of the case, and believed that they were obliged to decide as they did, and not go back to certain improvements made by predecessors, through a mistake in the drafting of the Act; I suppose that idea has been anticipated more or less, and that it was not a mistake in the drafting of the Act?
I presume so; I may mention, however, that in Ulster the principle of Adams

Adams *v.* Dunseath is stated not to apply, because Adams *v.* Dunseath was a case decided in reference to a holding to which the Ulster tenant right was not applicable, and that the principle might he different where the Ulster tenant right did apply, hut up to the present time there has been no decision as to what would he the result, under a similar state of circumstances, if the Ulster tenant right custom did apply to the holding.

109. Marquess of *Salisbury.*] I heard you say just now that it was impossible to form any opinion as to what were the grounds on which the judicial rent was decided?

I certainly have heen unable to form any opinion, and I know it is the general feeling of counsel that they cannot arrive at any opinion.

110. Have they no conception of the kind of topics which have most influence with the Suh-Commissioners?

Really, as far as I am concerned, I could not form any opinion as to how the judicial rent is arrived at, and if I were to form an opiniou as regards one Sub-Commission it prohahly would not he the principle upon which another Sub-Commission would act.

111. I suppose, when you have a case to argue, there are certain points which you consider likely to influence the Court, and on which you rely, and certain other points which you consider the Court would pay no attention to, and which you therefore do not think it worth while lahouring. Have you formed no scheme in your own mind of the kind of principle which would guide the Suh-Commissioners?

I have generally represented landlords in these cases, and the view I have taken of the arguments that ought to tend most in support of the old rent were these: first of all, that the old rent had heen paid without complaint or murmur, through good years and had years, for 30 or 40 years; secondly, that the tenant either himself had purchased, suhject to that rent, for a large sum of money, or that if he had not purchased, if he wished to sell. he could ohtain a large sum of money for it. It always struck me that those two arguments were the most powerful that could be used on hehalf of the landlord. My experience is that neither of those arguments produces any effect whatever on either the Suh-Commissioners' or Chief Commissioners' Court.

112. Then are you not rather emharrassed when you hegin to open your case, as the only arguments which, according to your experience, are of the slightest validity have no weight whatever?

I am wrong if I convey the impression that I think they are the only arguments of the slightest validity. They are what I think the most powerful.

113. Are there any arguments which are inferior hut which are more powerful according to your experience?

Perhaps in individual cases there may he some; you may, perhaps, get some facts.

114. What arguments would they he; would they be philanthropical, or political, or what kind?

My experience is that the Court is not very much actuated either hy political arguments or philanthropic arguments; the great difficulty that I, and every other advocate in the Court, have to contend against is this: we do not know upon what principle the Court acts, and therefore we are in ignorance of what are the arguments we ought to press upon them; the result of that is, that lately the advocate of the landlord has, as a rule, confined himself to cross-examining the tenant and the tenant's witnesses upon the improvements that they prove in order to ascertain whether or not those improvements have any hasis in fact.

115. Marquess of *Abercorn.*] Was it not the case that in Armagh you found the Higher Court would listen so little to what you considered reason and justice that you threw up 38 cases rather than go on with them?

In a number of cases in which I was engaged, I came to the conclusion that

it would be wholly useless, having regard to previous decisions that the Chief Commission had given, to attempt to alter the rents fixed by the Court below, and I stated that I should not proceed with the cases, and in that I did not act in an exceptional way, because I believe almost every one who represented landlords at the hearing of those appeals, or at least a great number, acted in the same way.

116. Marquess of *Salisbury.*] Was that because you thought the decisions were contrary to your view of what was just, or because you did not know upon what argument to rely?

Partly one and partly the other. A number of decisions were given in my hearing, and the hearing of the other advocates there, by Mr. Justice O'Hagan, in which the judicial rents, as fixed by the Sub-Commissioners' Court, were confirmed. In many of those cases the official valuers had valued the lands much higher than the judicial rent, and even higher than the old rent. In many of the cases the old rents were below the poor law valuation, and had been so for many years. In many of the cases the old rents had been paid without a murmur for 30 or 40 years. It occurred to me that when, under all those circumstances, the Chief Commission Court had affirmed the rents, as fixed by the Sub-Commission Court, it was hopeless to proceed with other cases. In the first place it seemed to me that the decisions up to that time had not been in accordance with any of the views of law that I would press upon them, and in the second place, I could not understand what was the principle that was governing them.

117. Do you observe that other members of the Bar, your opponents as well as those who take the same side as yourself, experience the same difficulty with reference to the principles on which the Sub-Commissioners act?

I think I am justified in saying that what I have given as my experience is the experience of all counsel who appear before the Chief Commission and the Sub-Commission Courts, whether as representing the landlord or as representing the tenant.

118. The tenant's counsel is just as much puzzled as the landlord's counsel as to what species of topic it is his duty to enforce, you think?

I have been informed again and again by tenants' counsel, that that is so.

119. Did you observe that at first they tried various topics, such as the market value, the price of produce, and so forth?

I have myself tried all those topics, and I know that other counsel have tried them also. We have pressed the Court with the market value, we have given in evidence the price of produce for the last 30 or 40 years in Ireland, showing that there has been a gradual and steady increase; we have pressed the Court with the great development that has taken place in every part of the country by reason of railway communication, and other modes of communication, and the opening of new markets, and I have never found any one of those topics produce any effect upon them.

120. And all these able advocates at the various Courts have been trying, by process of experiment, to ascertain what is the principle latent in the breast of the judge, and at the end of nearly two years have wholly failed to form even a hypothesis?

It is so with me, and I believe it is so with a great many others.

121. Then is it not the legitimate conclusion that there is no such principle?

I would prefer not to state my own conclusion as to what exists in the mind of the Court before which I practise.

122. As to the constitution of the various Courts, and as to the various members who may sit upon them, have you traced any difference in the character of their decisions?

I have not been able to do so. It seems to me to make very little difference how the Court is constituted. I refer to the constitution of the Land Commission Court itself. I have already said that the constitution of the Sub-Commission Courts largely affects the decisions.

The Witness is directed to withdraw.

Mr. ROBERT REEVES, Q.C., is called in; and Examined, as follows:

123. *Chairman.*] You are a member of the Irish Bar?
Yes.

124. And one of Her Majesty's Counsel in Ireland?
Yes.

125. And we understand that you are one of the original Sub-Commissioners under the Act of 1880?
Yes.

126. There were originally how many legal Sub-Commissioners?
Four.

127. And you are one of the four?
Yes.

128. Has your circuit changed?
Since the 7th November 1881 I have been in the counties of Limerick and Clare, and, on one occasion, in a small portion of the East Riding of the County of Cork. I have not been in Cork since then; I am glad I left it, as I hold property there.

129. At that time was there a part of Cork attached to the circuit?
There was.

130. And what was the reason for taking you off that circuit?
Two other gentlemen who were with me were from Cork, and, I believe, it was thought that it was better that we should be removed from that county.

131. You are yourself acquainted with the county of Cork.
I have property in that county.

132. How many members are there now on your Sub-Commission?
Four.

133. You were three?
Yes, myself and two others.

134. Are there four, in addition to yourself?
Four, in addition to myself.

135. So that there are now five of you?
Four lay Sub-Commissioners, and one legal Sub-Commissioner.

136. Is there any division of business; you do not sit together, do you?
The procedure is as follows: Two of my colleagues, as I select, sit with me the first three days of the week to hear cases; they then inspect the farms, and during the inspection for the last three days, I sit with the other two, and the same course is followed.

137. Then you decide which two constitute the Court?
The Commissioners have given the Assistant Legal Commissioner the amplest power of changing the Sub-Commissioners, and of making all arrangements that he considers essential for the transaction of business.

138. Viscount *Hutchinson.*] The Legal Commissioner has the control of the arrangements?
Yes, the control of the technique.

139. *Chairman.*] You do not inspect the farms yourself?
No. Sometimes, if unoccupied in Court, I drive out for recreation, but not for purposes of valuation.

140. But you do not otherwise take any part in that matter?
No.

141. Then, as I understand it, the first three days of the week you and two

of the Sub-Commissioners hear the evidence on the cases that are heard during those days?

We hear, I shall suppose, 20 or 30 cases in the three days. Having heard the evidence in Court, they go out with their books, in which the evidence is contained, and inspect the holdings.

142. So that you hear the evidence before they go to inspect?
Yes.

143. And the cases are not re-opened again in Court?
No, not unless some new feature turns up; that sometimes happens, and then I have the cases re-heard.

144. Is the object of the two Commissioners going to inspect to check the evidence which they have heard, or to make an independent valuation of their own?
It is done with a twofold object: first, to arrive at a conclusion as to the effect of the evidence and its worth; and, next of all, to make their own valuation.

145. To apply the evidence they have heard?
Quite so.

146. And also to make an estimate of their own?
Quite so.

147. Then I want you to tell the Committee this; how is it that you are able to separate yourself from that process?
What happens is this: a case is brought into Court; the tenant comes on the table and tells his story; he says, that this farm has been in the family for so many years; that his father and himself have executed certain specific improvements which are proved, and the value of which is given by experts. Evidence is also given as to whether the tenant has been prosperous during all this series of years, and other circumstances connected with the holding. Then the Assistant Commissioners go out and make their valuation, and then come to me. I then go through the evidence with them, telling them what, according to the legal decisions, they are bound to allow to the tenant for improvements, and what he can claim for. Then we come, upon the evidence and upon their report, to the best conclusions we can; but of course I need not tell your Lordships that the legal Assistant Commissioner is to a certain extent obliged to rely very much upon the opinion of the lay Assistant Commissioners.

148. So that on the question of fact upon the actual figures to be assigned, you must be dependent to a considerable extent upon them?
Very largely, if not altogether sometimes.

149. As to the *viva voce* evidence which is offered when you hear the cases, do you find much difficulty in reconciling the evidence on the opposite sides?
Very great.

150. I suppose the statements of value always are very conflicting?
I have often had occasion to say that if I were sitting alone to decide upon the evidence, that a conclusion would be impossible.

151. In consequence of the extravagance of the statements, perhaps on both sides?
Yes. There are sometimes, as your Lordship puts it, extravagant statements on both sides, but I think it right to say that in our counties of Limerick and Clare we have had valuers who possess our confidence, and who have given us great assistance from their competence and their knowledge of the county.

152. Viscount *Hutchinson.*] Do you mean valuers employed by the tenants or by the landlords?
Both by landlords and tenants.

153. *Chairman.*] I suppose a valuer who has a character at stake has a certain check from that circumstance placed upon him in what he says?
Yes;

Yes; but, as I have often had occasion to say from the Bench, the valuations of some tenants' valuers are simply ridiculous.

154. On the tenant's side, generally speaking, are they professional valuers, or do they value for each other?
Sometimes the tenant brings up a competent professional valuer, but it is too common for a tenant to get some farmer, a friend of his own, to come in and value the holding, and I need not tell your Lordships that the valuation meets with the respect that it deserves.

155. Have you been able to find, or have you had given to you, any scale of value with regard to prices or otherwise?
No, none from the Commission, but we have very good public tables of the prices of produce for many years, of butter, potatoes, and other things.

156. Have you found in practice an element of considerable difficulty in the question of improvements, both as to their value and the question of who has made the improvements?
There is great difficulty about buildings; of course as to any modern buildings which the tenant has built himself, there is no difficulty in proving the authorship of them, but with regard to the older improvements, although one is morally sure that they have been made by the tenants, there is no legal evidence of the fact, and then, according to the law, they are the landlords' property.

157. You are speaking now of buildings?
Of buildings.

158. In the part of the country that you are acquainted with, is it the custom to value the buildings?
We follow the Act of Parliament. If the tenant has built, we put no rent on the buildings as having been improvements made by himself.

159. In some parts of Ireland, as you are aware, the habit is to leave the buildings out of the valuation?
Yes, that is what we do, I think; I mean to say we put no rent on the buildings.

160. If they are made by the tenant?
If they are made by the tenant; I think that is carrying out the Act of Parliament.

161. But if they are made by the landlord you do put an estimate upon them?
Yes. It is very hard, I may say, to give the landlord the full value of his buildings in very small holdings; I know it from practical experience myself, because the better the landlord is the better his buildings are, and the more difficult it is in a small holding to give him anything like the interest that will repay bis outlay.

162. Buildings are improvements, *ad oculos*, but when you come to deal with other improvements it is not so?
The only otber two classes of improvements are reclamation of waste land and drainage.

163. What about fences?
The tenants claim very largely for fences, but mere alteration of internal fences we seldom allow for. One tenant likes small fields. and another tenant likes large fields, and I think it is better not to take into consideration the alteration of internal fences, but to allow for boundary fences and any internal fence which are substantial and permanent improvements to the holding.

164. What is your view with regard to fences?
With regard to internal fences perhaps you might like to have very large fields; the next tenant might like very small ones, as sheltering his cattle better. It would be a monstrous thing every time the fences were changed to deduct

deduct anything from the rent. I believe that the Commissioners do not allow for alteration of internal fences, unless special circumstances were shown.

165. Unless special circumstances were shown?
Yes, I think so. I am speaking from memory only.

166. Earl of *Pembroke and Montgomery.*] Is it clearly understood that all improvements must make an addition to the letting value?
Yes, under the definition of the Act of Parliament, improvement means a work which, if executed, will add to the letting value of the farm, and is suitable to the holding. Of course many things that the tenant might think an improvement we do not.

167. And that is thoroughly understood by both sides as a principle?
I cannot say that it is thoroughly understood, for tenants think that every thing that has been done on the farm from the beginning of time is an improvement, but I think it is understood that permanent buildings, drainage, fencing, such as I have already alluded to, and the reclamation of waste land constitute all the real, substantial improvements.

168. *Chairman.*] Now with regard to the drainage, what is the principle upon which you act?
Your Lordship knows with regard to any improvement made before the Act of 1870, twenty years before the claim, the tenant is entitled to no compensation whatever except for permanent buildings and reclamation of waste land, so that any drainage executed before 1870, and twenty years before the claim, is out of the case altogether.

169. The drainage, I suppose, is not an improvement which would last under any circumstances for that time?
No. The execution of the drainage varies immensely, as your Lordship knows; sometimes it is good, and sometimes it is bad. We look at the drainage, the date at which it was made, and then put the drainage over a series of years during which it would be fair to give the tenant an allowance; and we make an allowance according to the tenant's period of enjoyment, and the rent he has paid.

170. Then with regard to the reclamation of waste land, what do you say?
The reclamation of waste land is an improvement which is recognised by the Act of Parliament as a permanent improvement, because the tenant has changed the whole condition of the land from its natural state into a state of cultivation.

171. But how do you ascertain what the nature of the change has been?
We require the most accurate evidence, namely, as to when the tenant went into the holding, as to whether it consisted of cut away bog, for instance, whether it was full of large holes and water, whether it was or was not drained, levelled, sub-soiled, manured, and brought into a good state of cultivation by the tenant. We require that to be proved by the strictest legal evidence.

172. Marquess of *Abercorn.*] Do you consider the time the tenant has had the advantage of it?
Yes, clearly under the Act of Parliament we take into consideration the time during which the tenant has had the advantage of it, and the rent which he has paid, which is a very important element, also any benefit which the tenant has received from his landlord during that time. For instance, if the tenant got the turf which he cuts off for his own use, we would hold that he was more than paid for his reclamation, and put on the present improved value of the land.

173. *Chairman.*] In fixing a fair rent is there any presumption generally made in favour of a rent which has been paid for a certain length of time?
It is always *prima facie* evidence, and sometimes conclusive. It is conclusive, I should say, where the tenant a fair number of years ago went into possession, and without any other means of livelihood, has improved the land, increased his stock, put his children out in the world, given them fortunes, and so on. We have acted on that principle. Those circumstances speak far more strongly than

than the evidence of any valuer. On the other hand, we have seen cases which we considered called for reduction, in which the rent has been paid for a long time, but always with difficulty, or from resources other than the farm. In that case I do not think that the rent having been paid any length of time would be a presumption in favour of such a rent.

174. In the part of the country that you are acquainted with, have you any cases where there has been a sale of the interest of the tenant?
Well, not before our court. In going about the country I must, of course, hear of it. I have heard of a great number of sales.

175. Within what time do you think?
Within the last three months.

176. I was speaking of before the Act passed?
Oh, yes, many sales.

177. Sales of the tenants' interests?
Yes.

178. Was that before the Act of 1870 or between the Acts of 1870 and 1880?
Before the Act of 1870, and after the Act of 1870. I heard a case the other day in the county of Limerick in which the farm was bought, I think, in 1842.

179. Would you consider it an element in the case to find that certain rent had been paid, and that coincident with that, there had been a sale of the interest of the tenant for a further sum?
Yes, I think it would be very strong evidence, although there is a clause in the Act to the effect that payment by a tenant of any money for his holding, should not be considered an element, apart from any other considerations, in fixing a fair rent.

180. On the appointment of the Sub-Commissioners had they any instructions as to the mode of procedure on which they should proceed?
I can state, from my own knowledge, that they had none whatever. I should wish to say that an Irish tenant will often give a large sum for a farm, which any practical man knows is rented as highly as it can bear. I can tell you of a case which very well illustrates the point. A friend of mine, who is a large landowner, wrote me a letter, stating that he had himself fixed the rent of 11 acres of bog at 11 *l.*, and that his tenant had sold it for 160 *l.*

181. What county was that in?
County Clare.

182. When was the sale made?
Within the last six weeks.

183. Was that a sale under a judicial rent?
No, the landlord fixed it himself. He went over his property, and wherever he thought remodelling was necessary he did it. He said he thought that that was a very fair rent.

184. Marquess of *Salisbury.*] Is that money the tenant's own, do you imagine, or has he probably borrowed it?
Sometimes the tenants borrow the money. They make money by other industries and then turn to the land. Sometimes it is the tenant's own money; at other times his friends lend him the money; sometimes he gets it from America, and sometimes he borrows it from a bank, or sometimes he gets it as a "fortune" on his marriage.

185. As I understand, it would amount to another 10 *s.* an acre?
Quite so; in fact, it would bring it up again to the rents complained of before the Land Act.

186. Earl of *Pembroke and Montgomery.*] But if the rent is a full one how would he manage ever to pay the interest on the money he borrowed?
He never could out of the resources of that farm.

 187. But

187. But if he does not pay the interest I do not understand how he succeeds in borrowing the money?
I do not know what their financial arrangements are at all. The truth of it is the Irish farmer does not know the use or value of money, and he will give all the money he has for the mere possession of land.

188. *Chairman.*] Of the two payments, which would come first; the rent, or the interest on the borrowed money?
The rent.

189. Would that be so?
Well, if it is only a bill to the banker, or a mere personal obligation, I should think the rent would be paid first.

190. Marquess of *Salisbury.*] There is not much for the banker to take in execution, is there?
No: not on 11 acres of hog land, but the bankers have given the tenant farmers large accommodation up to this time, since the Act of 1870.

191. *Chairman.*] I should like to know when your colleagues, what I will call the non-legal Commissioners, go out upon the farm after the case is heard, are they accompanied by any representatives of the litigant parties?
Yes, they have some one to represent both the landlord and the tenant. I always take care of that, and if by any chance or inadvertence that has been omitted I cause the farm to be inspected again.

192. With notice to both sides, I suppose?
With notice to both sides.

193. Viscount *Hutchinson.*] That is a rule you have made for your own guidance?
Yes.

194. Do you know whether that is general?
I do not know, but it ought to be, because no farm could be properly inspected without that.

195. *Chairman.*] And are the non-legal Commissioners persons who have had experience in that particular part of the country, or are they from other parts of the country?
They do not come from the County Clare or County Limerick. Two gentlemen come from County Cork, one from Mayo, and one from Waterford. Two of these have been with me in the counties of Limerick and Clare for more than a year, and possess a good practical knowledge of the locality.

196. Marquess of *Abercorn.*] You said just now that you get a good deal of assistance from the valuators of the land, and also from the tenants. Can you explain why it is that in the North of Ireland the Sub-Commissioners pay no attention whatever to the valuation of men like Mr. Edward Murphy, and others of that stamp; they set them aside altogether?
I cannot say. I can only speak for the south. I think that any Assistant Commissioner that did not pay the very greatest attention to a local valuer who was above suspicion would not be discharging his duty properly.

197. *Chairman.*] With your Sub-Commission is it the practice that the tenant gives a notice of the improvements that he claims beforehand to the landlord?
Whenever he is asked. The practice is for the landlord to serve notice on the tenant for particulars of improvements; he is bound to supply them in a certain time; if he does not supply them, there is an application made to the Head Commissioners for an order to compel him to do so.

198. Is he held to the particulars that he has given notice of?
I always hold him to them, because the landlord comes into Court prepared to deal only with certain specific improvements, but in the majority of the cases the improvements are so well known in my counties that particulars are not asked

asked for. If the tenant has omitted any improvements, I should adjourn the case, if I thought injustice would be done otherwise.

199. Viscount *Hutchinson.*] That is your experience?
Yes.

200. *Chairman.*] Then in delivering your judgment, or making your award, or whatever it is termed, is there any indication of what you consider to be the letting value of the land if improvements were out of the case?
No, nothing on the face of the judgment.

201. You only give the one result?
We make it up ourselves, and the official order made out by us, I think, consists of four sheets, the last of which is a schedule containing particulars of landlord's and tenant's improvements respectively.

202. You say that that is among your own papers?
It is in the official order we send up to the office, and annexed to each order fixing a fair rent is a schedule of improvements, specifying by whom executed, and whether landlord or tenant.

203. Marquess of *Salisbury.*] And the value you attach to them?
No. The evidence in the case will deal with the value that should be put upon them. As the Marquess of Abercorn suggested just now, supposing a house were built, the evidence would dispose of how much should be allowed for this house, according to the period of enjoyment and so forth. This schedule is framed, I think, with a view to keep a record of improvements that have been considered on one side or the other in fixing a judicial rent.

204. Marquess of *Abercorn.*] Do you take the whole Government valuation into consideration?
Do you mean the valuation of both land and buildings.

205. Yes, both?
From what I have seen I attach very little weight to the Government valuation. In some cases I think it is preposterously low, and in other cases the Government valuation is rather high.

206. It is more uncertain in the south, is it not?
It is. In County Limerick the good pasture lands are worth 30 per cent. or more above the Government valuation. Tillage lands were more valuable about 1851, when corn was largely grown in the country, and the valuation was based upon that. Tillage having gone out in the counties with which I am familiar, corn is no longer grown, and the lands having been turned to grazing purposes, have gone back very much in value.

207. *Chairman.*] Then do I understand that neither in your papers nor in anything that you return to the Dublin Office is there any mention of what you call the letting value of the land, without reference to improvements?
None.

208. Do you think that that is a convenient course for the parties themselves; I mean with reference to their satisfaction with the judgments and their knowledge of whether they should appeal or not your judgment I suppose is composed of the two elements, the letting value, and the allowance to be made in respect of improvements?
Yes, of course.

209. Would it not be, for the satisfaction of a suitor, desirable to know what your opinion was upon the points?
I suppose it would be, for the satisfaction of the suitor.

210. Would there be much difficulty in giving it, as you have to go through the operation?
I should think there would be no difficulty in regard to most improvements.

211. Viscount *Hutchinson.*] You only announce in Court the result at which you have arrived?

My procedure at first was to go through the history of the case; then I found that both parties cared for nothing but the result, so I am extremely brief now in giving my judgments, or in announcing the result.

212. *Chairman.*] You think the parties do not care to know the process by which you arrive at it?

I found that they did not.

213. Might not other parties (bystanders, who are anxious to know what their fate might be) care to know?

I am always very happy to answer any reasonable question I may be asked when delivering judgment.

214. Marquess of *Salisbury.*] Do you answer questions which may be put to you in Court?

Any reasonable question I should be very happy to answer, but I have had some very good counsel before me (at first almost in every case) and every improvement was thoroughly gone into, and at the end of each case the counsel have submitted that there were such and such improvements on the one side or the other, and that so much should be allowed or so much taken off.

215. Duke of *Norfolk.*] You say originally your practice was not to be so brief in announcing your decision?

I was never very long, but I used to go into the history of the case.

216. Viscount *Hutchinson.*] I understand from your answer to Lord Cairns that when you make an order you send up a sheet stating the improvements made by both parties?

Yes.

217. And nothing more than that?

Nothing more.

218. Is there no reason which you communicate to the Chief Commissioners for the decisions that you arrive at?

None whatever. That would be manifestly improper, because the case might come before them on appeal.

219. Not always?

You never can tell that there will not be an appeal, certainly for a fortnight, and then, afterwards, a tenant or landlord may be allowed to appeal upon good ground shown.

220-21. And the case being a re-hearing before the Chief Commissioners you consider it would not be proper for you to send up that information?

It would not.

222. So that practically it comes to this, you have no record of the ground of decisions at all?

None whatever, except in my note book.

223. Which is perishable, and may not be produced at the end of fifteen years?

That is so; but you have got everything in the record; you have got the old rent, the valuation, the acreage, the time during which the rent has been paid, and all that upon one sheet; next to that is affixed the official order containing the judicial rent, and the value of the tenancy, and annexed to that is a sheet containing the schedule of improvements. Those are all put up in the record office of the Court in Dublin, and at the end of fifteen years suppose the tenant comes in again, it would be found that on the hearing of that case those improvements were taken into consideration in fixing the fair rent.

224. Are those public records; are they accessible to anybody?

Yes, you or anybody else can get for a shilling, I think, an official copy.

225. *Chairman.*]

225. *Chairman.*] That, of course, might satisfy the Court that the improvements had not existed all that time, might it not?
Almost, I think.

226. Was it not begun last year?
It was, I think.

227. It commenced, I think, after this Committee began to sit?
Yes, I think it did.

228. Your Sub-Commission had official valuers at one time, had it not?
Yes.

229. Were they attached to all the Sub-Commissions?
They were.

230. How long did that continue?
That continued from 19th September until we broke up at Christmas of last year.

231. What was the duty of those official valuers?
The duty of the official valuer was to accompany on to the land one Assistant Commissioner who had sat in Court and heard the evidence. He went over the holding with the Assistant Commissioner, heard the evidence secondhand from him, and then filled up the sheet, stating that, having considered all the circumstances of the district and the holding, and the interest of landlord and tenant respectively, the fair rent should be so and so.

232. That was his valuation?
That was his valuation.

233. Then was the lay Sub-Commissioner to concur in that or not?
He had the advantage of that. Then I went over the case again with the lay Sub-Commissioner, and the valuer's report, and fixed the rent upon the evidence we heard in Court, and the opinion of the Assistant Commissioner and the valuer.

234. Just let me understand this point; was the official valuer a member of the Court?
No, he did not hear the evidence.

235. Then the Court only consisted of two?
It only consisted of two. I thought it was an objectionable procedure; I thought so from the first. I think for anyone to pass judgment in a case in which he has not heard the evidence direct from the parties concerned is a faulty procedure, because very often, as I have said before, the history of a case is the best evidence you can get as to the fairness of the rent. It is impossible to divest your mind of what you have heard from the principal actors when the case is going on in Court. The official valuer had not the advantage of that.

236. Does not that observation cut both ways; if the judgment is to be formed only upon hearing all the evidence or seeing all the materials, are not you at a disadvantage yourself in that way, because you do not make the inspection which ultimately guides your two colleagues?
Of course my department is the legal department; I am responsible for the law being correct; if the two Lay Assistant Commissioners say that the farm is only worth so much, I cannot alter that.

237. Are you not also responsible for the question of the value?
I do not think I am responsible for the question of the value.

238. Marquess of *Salisbury.*] Is that expressed in any document?
No.

239. Did you receive any intimation to that effect from the Commissioners?
No; I have heard the evidence, and if the two Lay Commissioners go on the land, inspect the land, and consider the evidence, and tell me that they consider that under all the circumstances of the case so much is the fair letting value

value of the farm, I do not see how I can interfere, unless I think, from the evidence of other good witnesses I have had before me, that they are making a mistake. If that were to happen, then I would not hesitate to say that I dissented from the judgment.

240. *Chairman.*] So that virtually it is the two Lay Commissioners who fix the value?

Yes, but I am bound to say that the gentlemen with whom I have been associated, and am associated now, give me entire satisfaction.

241. But it is virtually they who fix the value?

It is.

242. Earl of *Pembroke and Montgomery.*] What happens when they disagree?

From April 1882 to March of the present year, we never had a single disagreement as to value.

243. You never had one, you say?

Never.

244. But suppose you had one?

I should look at the evidence, and give the casting vote in favour of the Commissioner who I thought, on the whole, was right.

245. Viscount *Hutchinson.*] Has a case ever arisen in which you have disagreed with your two colleagues on a question of value?

I think not.

246. Or on a question of law?

They do not presume to interfere with the law.

247. Is that really so?

They do not.

248. They leave the decision of the law entirely to you?

Entirely.

249. And have always done so?

In the early time I think they once dissented from me.

250. *Chairman.*] But, I suppose, comparatively speaking, the questions of law are few?

There can only be such questions as elementary questions of landlord and tenant law, or whether the holdings are town parks, or holdings let for grazing, and so on, in such a way as to bring them within the exceptions of the Act.

251. Would you call the questions decided by Adams *v.* Dunseath questions of law or of fact?

I should call them very important questions of law.

252. The application of the law as laid down in Adams *v.* Dunseath you consider to be within your province?

Entirely within my province; they have nothing to say to that.

253. Viscount *Hutchinson.*] You as legal Sub-Commissioner, are in some way the chief authority of the Sub-Commission, the person who gives the judgment and controls the movements of the body. Suppose it should happen that you were over-ruled on a question of law, have you the right to order an appeal or advise an appeal?

I could not imagine that occurring.

254. Marquess of *Salisbury.*] Are your lay brethren agriculturists?

Yes. Three of them have farmed a great deal; the other has not farmed so much, but he is a very competent man.

255. You seem to think there is something in the legal profession which disqualifies a man from judging upon an agricultural question?

I think

I think he is able to judge; but I do not think he has usually practical knowledge of agriculture.

256. *Chairman.*] While there was an official valuer attached to your Commission, were there many cases decided?
Yes, a good many.

257. The usual number?
Not so many as now, because the business is vastly accelerated by the new system. We do now fully twice as much as before.

258. Are you aware of any difference in the scale of reductions in rent, when there were official valuers, as compared with what has been the case before?
No, we had two official valuers, both of whom had valued largely for landlords; in fact, I do not believe they had ever valued for tenants. They were both very competent men, and substantially agreed with the Sub-Commissioners. There may have been slight differences, as will always occur in the case of the most experienced valuers.

259. But in substance you are not aware that there was any difference in the scale of deductions?
No, no practical difference.

260. On your Sub-Commission do you know what has been the general rate of reduction of rents all round?
I could not at present answer that accurately. I could however find that out. There have been some large reductions. One thing which I disapprove of, is making a very small reduction in a rent that has been paid for a long time. I think, where a rent has been paid for a long time, that it is quite unsound to make a very small reduction. Land valuation is not like mathematical demonstration, and the payment of a certain rent for a long time ought to be clearly in favour of the old rent standing, where there is only a small difference between the old rent and the Sub-Commissioners' estimate.

261. Marquess of *Abercorn.*] As legal Commissioner, can you enforce that opinion?
I have often done so.

262. Earl *Stanhope.*] You mean that when the rent has been paid without question for 30 or 40 years, you think it ought not to be re-opened?
What I say is, that where the rent has been paid for 30 or 35 years, to make a very small deduction from that rent is not founded upon any sensible ground.

263. Marquess of *Salisbury.*] You think it ought not to be disturbed except for good reason?
No, I should not be afraid to make a sweeping reduction where it should be made, but I should be equally unwilling to make a small reduction where it was not required.

264. Earl of *Pembroke and Montgomery.*] In point of fact you act upon the same principle as the chief Commissioners go upon with regard to the decisions of the Sub-Commissioners, as I understand, namely: where is only a small alteration made, to leave the decision undisturbed?
I do not know whether that is the principle or not.

265. *Chairman.*] I understood your answer rather to point to an element which would not be before the Court of Appeal, namely, payment for a considerable length of time, and no cause for making a large change?
Yes; take for instance a rent of 35*l.*; I have seen reports of cases in which such a rent has been reduced to 33*l.* 10*s.*, or something of that kind; any practical man knows that such a reduction, comparatively speaking, is nothing to the tenant, while at the same time it makes a great difference on a large estate.

266. Duke of *Norfolk.*] Then to that extent you would interfere in your legal capacity?

And I have done so often, but I am glad to say that my colleagues, I think, agree with me in that.

267. Earl *Stanhope.*] Have you had any observation of how farming goes on where rents have been fixed judicially?

Well, I can only tell of one case; that was one of our earliest cases; it is all over now, so that there is no harm in mentioning it, though I do not mention names. It was a case that was taken to and affirmed by the Court of Appeal. Since the decision of that case the tenant had executed great improvements. Some of the Assistant Commissioners chanced to be out the other day to value other land in the neighbourhood of that tenant's holding, and they told me that it was marvellous what this man had done since his rent was fixed; he has planted all about his house and improved very much.

268. And the land was in good cultivation?

Yes.

269. And were there any buildings, or anything of that sort, erected upon it?

There had been no buildings made since; but very good ones had been made before that.

270. Was that in the North?

No, in the South of Ireland.

271. *Chairman.*] Supposing in a case before you, evidence is given of value on behalf of a tenant, and the landlord for any reason does not give evidence, is it your course to examine into the value for yourselves, or do you accept the tenant's evidence?

Certainly. I should not think of accepting the tenant's evidence. I know that a great many landlords prefer to have no valuer but to leave it to us. I have got a letter in my pocket from an agent that probably many of the Members of this Committee know, saying that he would leave the cases to us and have no valuer.

272. I think it has been stated; I do not know whether it consists with your knowledge that there are some Sub-Commissions in which a different practice has been followed?

I saw the report of the case to which I think your Lordship alludes in the paper.

273. You have heard of it?

I have.

274. You do not know of your own knowledge anything about it, do you?

I do not of my own knowledge.

275. Earl *Stanhope.*] Just now you gave an instance of an improvement of land. Is it your general experience that where judicial rents have been fixed the land has been improved?

That is the only case I can tell your Lordship anything about.

276. Then it is, I suppose, to be assumed in the case you have mentioned that the tenant was so satisfied with the judicial rent that it would not be merely a fixity for 15 years, but that it would be likely to be satisfactory for a long term?

I fancy so.

277. Viscount *Hutchinson.*] You do not anticipate a general re-settling at the end of 15 years, do you?

I should not like to express any opinion upon that. He would be a wise man who could say anything about the Irish land question for any number of years.

278. *Chairman.*] So far as you have observed, do you think that the ruling or decision in the case of Adams *v.* Dunseath is generally understood by the Sub-Commission throughout the country?

I fancy it is very well known by the legal Sub-Commissioners.

279. By

279. By the legal members you think it is?
I think so.

280. So far as you know, has it been followed?
Always.

281. Marquess of *Salisbury.*] I was much struck with an observation you made just now as to who could tell in a valuation what is exactly right or what is represented; I watched in your remarks what the grounds were upon which the decision to which you and your colleagues came was based. I observed that you named several things; you said that you had the prices of produce brought before you; does that matter enter into consideration?
Yes, certainly.

282. You examine what the price of produce is now, and what it was some years ago?
Certainly.

283. And that is one ground for the decision?
Certainly.

284. Then you said the history of the case was one of the most valuable guides, did you not?
Yes.

285. By that do you mean the history of the power of the tenant to pay, or in what sense?
What I mean by the history of the case is this, and I speak from a case I know; a tenant goes into a farm with two cows at its present rent; he builds offices that cost a thousand pounds or more; he has 75 cows; he has bought a property for his son, and given him a fortune of 1,200 *l.* when he married, and now he comes in to fix the rent. I say that the rent that enabled him to do all that is at least a fair rent.

286. It proves that he has made a profit out of it?
Yes, and that speaks more strongly than any valuation.

287. And do you apply the same reasoning where the history gives indications in the opposite direction?
Yes; where there is a history of perpetual remission of rents; paper rents; rents nominally having been paid for a long time, but every time that a man lost a cow or two, a remission of rent; or when the times get a little bad the agent making large remissions; and, in fact, the rent existing only on paper, and not in reality.

288. That you would not consider a fair rent?
That I would not consider a fair rent if the tenant were an industrious and intelligent man; of course that must be one of the conditions.

289. Then I observed that you said on one occasion that you attached the extreme market value to a particular piece of land. How do you ascertain the market value, now that there is no market?
The valuer who comes up for the tenant or the landlord will say what, according to his knowledge of prices in the country, the circumstances of the case, the supply of water, &c., would be the outside value that the land was worth.

290. That is to say, what it would fetch in an open market when an open market existed?
Quite so.

291. It is a hypothetical market since the passing of the Land Act, is it not?
Quite so.

292. But though hypothetical, it still serves as a guide in your decision?
Yes.

293. You imagine to yourself a process of bargaining, and come to a conclusion as to what would be the result of the bargaining of a prudent man?

Take it in this way: what is the value of this farm as a going concern; what would it fetch if the tenant got it in its present improved condition. From the rent arrived at in that way the Commissioners would be bound, according to the Act of Parliament, to deduct whatever the tenant was entitled to for the improvements that had brought it into its present state.

294. What I rather wished to ask you was, whether you would take into consideration what the tenant would give, or what he ought to give if he were a prudent person?

I should rather say what he ought to give, because our experience is that the tenant will agree to give anything.

295. You are assuming what an average tenant ought to give?

An intelligent man would say, "This farm can support so many cows, it can grow corn, potatoes, and all that, and give me so much return for my capital, and so much for labour, and I can afford to pay so much for rent;" that is what I would take as the market value to a sensible person.

296. To a certain extent you would give your adhesion to the "live and thrive" doctrine?

No, not live and thrive.

297. But to live?

Live and let live I think is more correct.

298. Viscount *Hutchinson.*] In fixing the value of the farm, do you look at what the farm is worth with a tenant on it, or at what it would be worth if the landlord had it in his own hands and was going to let it?

I would look at it as if it were in the landlord's hands, and he was going to let it.

299. Marquess of *Salisbury.*] In some cases where the farmers came for a judicial rent, the land is not of so much value as it was some five or more years ago, because the tenant has scourged it; do you take that into consideration adversely to the tenant?

Yes. I should have been disposed to hold that it came under what is called the equity section of the Act, and I should have dismissed the case of a tenant who had scourged the land, because he would have brought the land into such a state as to make it almost impossible to put any value upon it. The Commissioners have, I think, held the opposite.

300. I am afraid you would have had to dismiss a good many, would you not?

Well, I should have done it wherever it was right.

301. Viscount *Hutchinson.*] With reference to the composition of the Sub-Commission, you are satisfied with the present mode, as I understand?

No.

302. Are you not?

No; I do not quite approve of it, for this reason: As I explained to Lord Cairns, I sit one part of the week with two Sub-Commissioners, and the subsequent part of the week with two others; I have no occasion to make any complaint of my own colleagues, but I know that it is possible, that those who have their cases heard on Monday, Tuesday, and Wednesday, get off much better or worse, as the case may be, than those who have their cases heard at the latter end of the week.

303. Marquess of *Abercorn.*] In speaking of the composition of the Sub-Commission, suppose the two Sub-Commissioners value, on practically the same ground, 15 per cent. lower than the other two, should you object to that?

Yes.

304. Viscount *Hutchinson.*] Could you suggest any change in simplification of this mode of the constitution of the Court?

I have thought it over very much; the business, however, to be done was

so large, that it was found necessary to accelerate the work; I think the old system of my sitting with two colleagues whose qualifications and views I knew, was much the best, because I could always ensure the same canon of valuation and uniformity of decision in that county, and this is all-important with regard to landlords and tenants settling out of Court.

305. I only suggest this in order to get your opinion about it; do not you think you would secure that by making the ultimate decision of the Court one to be purely decided upon by evidence alone, and not by inspection, then it could be done by one person?

I have seen something of the working of the Land Act before the County Court Chairman, and it was eminently unsatisfactory there, I thought, because the Chairman heard the evidence and did not know anything of the lands, and had not even an official valuer, and he was obliged to arrive at the best conclusion he could upon evidence that was vastly conflicting.

306. And of course it was slower then than it is under the present system?

The Chairman is much quicker; if I was sitting as a Chairman, I could dispose of twice as many cases in a week as under the present system, but I think in the interest of the landlord and tenant it is much better to have the cases done with sufficient slowness, and not to hurry over the cases. Every farm should be most carefully inspected, and it is better to be a little slower, and ensure greater efficiency.

307. As regards this question of tenant right, I think you have told Lord Cairns that you remember cases which have come before you where the tenant right was purchased as long ago as 1839?

Or 1840, or 1842, some few cases.

308. Cases have also, I daresay, come before you where the tenant right has been purchased very much later?

Yes.

309. Within the last two or three years, for instance.

If the tenant right had been purchased within the last two or three years, I think we should say that the tenant had given a very good idea of what was a fair rent. I think that ought to be conclusive, at least that the rent should not be lower than what he bought at.

310. You would, I suppose, take the fact of a man paying 130 *l.*, 140 *l.*, or 150 *l.* for the privilege of paying a certain rent, as a sort of presumption of the fairness of that rent?

That depends upon the time when the purchase was made; when the times were very prosperous, very large sums were given for farms held at rents which at the present time would be too high: but any one who took land, either with or without a fine, after the times got bad, in 1878, or during the pendency, or after the passing of the present Land Act, should, I think, be held to his bargain, and we never have done such a thing as to change the rent under those circumstances.

311. The effect of changing the rent under those circumstances is at once to put the economic law in motion, and to increase the value of the tenant right very largely, is it not?

It is, of course.

312. As regards the *modus operandi* in the Court, and the question generally of the price upon which fair rents are determined, I understand from you that you had no direction of any sort?

None whatever.

313. In fact, that the way in which it is done is evolved by yourself and your colleagues?

Completely; in fact, we have made the practice as it exists, whether bad or good.

314. I suppose that has been the case with the other Commissioners as well, that is to say, having no instructions?

I am quite sure of it.

315. Still we may take it, I suppose, that there is no very great chance or likelihood of the procedure of the Courts being strictly in accord and entirely the same?

I think if they are good sensible men, who know the district very well, there would be very little difference. For instance, if you take the deductions to be allowed to a tenant, it is pretty well known exactly what the reclamation of bog will cost, and so on.

316. There is a minor point I wish to ask you about; I suppose it has occasionally been your lot to fix fair rents against middle-men?

Yes, often.

317. Is there any rule of your Court by which the head landlord gets a warning?

My procedure is this; I always get the title deeds of the middle-man, to see exactly how he holds, and what rent he pays. If he has got practically a fee simple title with what is in the nature of a ground rent, I do not give any notice to the head landlord, but if there is any likelihood of the head landlord being affected, I always let the case stand over for him to be served with notice, and I take care that in no case is the tenant's rent ever fixed below what the middle-man has to pay.

318. Never below?

Never.

319. That has never happened once has it?

It happened once in the first case that came before us. The reason was that the counsel for the landlord did not state that the tenant was a middle-man, and did not produce the instrument under which he held, but I have had many cases since, and I have always done as I say.

320. That case was reversed on appeal, was it not?

It was, and rightly so too.

321. Is it not rather difficult to arrive at a fair profit rent for a middle-man?

The Act of Parliament says you must look at the interest of the landlord and tenant respectively; you must not destroy his interest, and I have often told the tenant "we cannot fix any rent for you that will destroy your landlord's interest. You take under him, and we look to the circumstances of the case and the interest of your landlord, and must fix the rent accordingly."

322. Earl of *Pembroke and Montgomery.*] That has not been the invariable rule of the Sub-Commissions, has it?

I do not know.

323. Marquess of *Salisbury.*] You do not know of any Sub-Commission except your own, that has adopted the same practice?

I can only answer for my own acts.

324. Viscount *Hutchinson.*] I understand that in cases where you think it is sufficiently important, the head landlord always has notice?

I always give it to him.

325. Marquess of *Salisbury.*] Were any orders or intimation given to you with reference to the statement or record of your reasons; did you abstain from stating them or recording them in consequence of your own judgment, or in deference to any orders you received from superior authority?

From my own judgment.

326. You have received no such orders?

I have received no such orders. If the parties ask me I give a judgment. I have done so.

327. Viscount *Hutchinson.*] What reason had you for thinking that the parties did not want to hear the reasons?

I heard it generally said by the practitioners in the Court, that the only interesting point to them was what was the fair rent.

328. Marquess

328. Marquess of *Salisbury*.] Should you he surprised to hear that we have had counsel before us state that they have sought, and sought in vain, to ascertain what were the principles guiding the Sub-Commissioners?
I should not be surprised.

329. Should you gratify the curiosity of any such counsel if they came across you?
Well, I have never heen asked for any reasons.

330. Have counsel never expressed a desire to know the reasons?
I have never heen asked.

331. Viscount *Hutchinson*.] Would it he proper in a court of law for counsel to get up and ask for the reasons of the decision?
It is not usual. The judge always gives his reasons.

332. Earl of *Pembroke and Montgomery*.] Have you ever put in force the provision of the Act witb regard to labourers' cottages?
Very often. I helieve our Suh-Commission has put it into practice oftener than any other; we have done it very often.

333. Marquess of *Salisbury*.] And with what result?
I do not think that the orders have heen complied with as a rule, hut I took occasion to remark the other day, that under Mr. Villiers Stuart's Act any labourer who was aggrieved has nothing to do hut to go into Petty Sessions and complain, and the justices can make a summary order putting the tenant under a heavy penalty per week until the house is built.

334. Earl of *Pembroke and Montgomery*.] He would be at once turned out of his employment, would he not, if he did that?
I cannot say.

335. Marquess of *Salisbury*.] You have no power of following the history of your order and seeing whether it is oheyed or not, have you?
I do not exactly know the working of the office, but I think it is intended that there should he inspectors to ascertain whether these cottages are erected. There is great difficulty ahout building them. The existing houses are so wretched that new ones must he huilt almost in every case. And then the expense of huilding these cottages is very considerahle. I have some experience myself; you cannot huild a good cottage worth anything, under ahout 65*l*. Then, in order to build the cottages, a tenant horrows from the Board of Works, and has to pay 6 per cent., and, with the cottage, he has to give tbe labourer half a statute acre of land.

336. Marquess of *Abercorn*.] Then, again, on a small farm the labourers' houses would be better than the tenants, would they not?
Yes, but we would not make an order on a very small farm. I would say at least 30, 35, or 40 acres.

The Witness is directed to withdraw.

Ordered, That this Committee he adjourned to Thursday next, at Twelve o'clock.

Die Jovis, 26° Aprilis, 1883.

LORDS PRESENT:

Duke of NORFOLK.	Earl CAIRNS.
Marquess of SALISBURY.	Viscount HUTCHINSON.
Marquess of ABERCORN.	Lord TYRONE.
Earl of PEMBROKE AND MONTGOMERY.	Lord BRABOURNE.

THE EARL CAIRNS, IN THE CHAIR.

MR. GEORGE HILL SMITH, is called in; and Examined, as follows.

337. *Chairman.*] You are a member of the Bar in Ireland?
I am.

338. You have had considerable experience in practice before the Primary and Appeal Courts of the Land Commission?
I have been before nine different Sub-Commissions and before the Appeal Court.

339. In what part of the country chiefly?
In the North altogether, and through the counties of Armagh, Tyrone, Down, Antrim, and Monaghan.

340. And have you been engaged in appeals also?
Yes.

341. In what places?
Belfast, Lifford, Omagh, Enniskillen, and Armagh.

342. Under the Act of 1870 also, I believe, you have had experience?
Yes; I have had several cases under that Act in three or four counties.

343. We understood last year that considerable inconvenience had occurred at first from the want of any notice or information to the landlord as to the nature of the improvements the tenants intended to rely upon, and that led to a rule being made upon the subject?
Yes, there was a rule; the 22nd April, I think, was the date of it.

344. 22nd of April, last year?
Yes.

345. In the first place, will you tell the Committee what was the nature of the rule?
I can read the rule, if your Lordship pleases. The date is the 22nd April, and it is No. 150: "Where an originating notice to fix a fair rent has been served by the tenant in any case in which the poor law valuation of the holding shall not be under 10 *l.*, the landlord may demand from the tenant the particulars of any improvements intended to be relied upon by the tenant as having been made by him or his predecessor in title, with the dates at which the same were made, and in case of neglect or refusal to comply with such demand, within a reasonable time the landlord may apply to the Court for an order that such particulars be given. The Court may on special grounds make an order that particulars shall be given when the valuation is under 10 *l.*, or shall be given

given by either landlord or tenant in any other case not provided for by any rule of Court."

346. In the first place, with regard to the limit which is mentioned there of 10 *l.*, what do you understand to be the reason of that limit?

The reason is indicated in Mr. Commissioner Litton's own evidence as well as I can gather, and in evidence that was given before the Committee by Mr. Adams, a barrister. Mr. Litton's view was that in cases where the holding was valued at less than 10 *l.* it would impose an amount of costs upon the tenant which his position would not enable him to bear.

347. What would the cost be, supposing the tenant received a notice and complied with it; would there be any costs in the ordinary sense of the term occasioned in that event?

None, except the costs of his own solicitor, which would not be certainly more than 5 *s.* in any case.

348. Might he not be able to prepare a return to an order of that kind without the aid of a solicitor?

In point of fact, in practice I have had several before me where the tenant himself served the particulars in reply to that notice. I may mention that all the particulars that would appear on the face of an answer of that kind must be before the solicitor necessarily to prepare the case for the hearing; therefore, it is merely transcribing on the face of a notice the particulars he already has.

349. I observe the rule that you read said that in a special case an order might be made even under 10 *l.*?

Yes.

350. For a special case there would have, I suppose, to be a special application to the Court in Dublin?

Yes, grounded upon affidavit and notice to the tenant, which would involve costs of certainly six or seven guineas

351. Then upon a special case requiring the intervention of the Court the costs would be very much greater where the valuation was under 10 *l.* than where it was over, would they not?

Certainly; they would be 6 *l.* at the very least.

352. I suppose, practically, from your experience, you would say that there is as much occasion for a landlord to be informed where the holding is under 10 *l.*, what the improvements are that are claimed, as where it is over 10 *l.*?

In my experience, much more so. The quantity of improvements that are claimed on small holdings is far larger in proportion than on large holdings, and the date at which they are alleged to have been made, when you come to the evidence, is more recent. In very many instances all the improvements attempted to be sustained in evidence at the hearing have been stated to have been carried out upon the holding subsequent to the service of the originating notice altogether.

353. Then I understand it to be your opinion that that part of the rule has not worked well?

Certainly; I think the rule ought to be general.

354. I observe the rule states that if the notice is not complied with there is an application to be made to the Court?

Yes.

355. What Court does that mean?

The Court in Dublin We tested the case. There were some cases in which I was concerned myself, and Mr. Riordon was concerned for the tenants in Omagh, and, in answer to a notice under that rule, the reply that Mr. Riordon served was that the tenant claimed to have reclaimed all the land on the holding, and to have made all the improvements. The cases were No. 40, or 45, or 50, I think, on the list for hearing; and when the Sub-Commissiou was at Omagh, on

on the first day, I made application on the part of the landlord that Mr. Riordon should be compelled to give more specific particulars, and the Court there gave a direction, in the shape of an order, that that should be done before the following Wednesday morning. That was to amend particulars which had to some extent been already furnished; but in other cases where no particulars were furnished at all, and we made application to the Sub-Commissioners under that rule to make an order that they should be furnished, we have been invariably met with this answer, "the application is one that must be made to the Court in Dublin; we have no power to entertain it."

356. I suppose I may take it that if there was sufficient time to make an application to the Sub-Commissioners' Court, there would be a saving of expense as compared with the expense of an application to the Court in Dublin?
Very considerable.

357. Of course, if the case was an early one, coming on near the beginning of the sittings, there would not be time to wait for the Sub-Commission to come to the town, and make the application then for particulars?
The Sub-Commissioners have been very courteous in that way; they have raised no difficulty in transferring a case from an earlier part of the list to a later if a valid ground is laid for it, and I daresay in a case like that they would do it, but that is subject to the objection of the other side; the other side may object to such an alteration of priority in the hearing of their cases.

358. What is your opinion as to how the matter might be worked, supposing the rule were to run in this way, that if the tenant either did not give the particulars, or gave defective, illusory particulars, the application for particulars or for better particulars should be made to the Sub-Commissioners' Court?
There would be no difficulty in that, except in the case of the very first town of their circuit, because you can get the lists for the subsequent towns, under the new arrangements, about three weeks before they sit there, and if proper particulars were not furnished, say in the second town in which the Sub-Commission was to sit, if the Sub-Commissioners had the power to make this order they could be applied to in the first town during their sitting, and no time would be lost in the next, or subsequent towns.

359. Can you give the Committee some idea of what the saving of expense would be; what would be the relative expense of an application of that kind to the Sub-Commission, and an application in Dublin?
An application to the Sub-Commission would, practically, cost nothing, but the attendance of the solicitors on either side. The application in Dublin would be by notice, and should be founded upon an affidavit, and should be made by counsel. Certainly the minimum expense of that would not be under 8*l.* at all events; from 6*l.* to 8*l.* would be the very lowest, and there would have to be an application in each case; if there were 40 tenancies on one estate listed, a separate affidavit should be made in each of the cases.

360. Supposing the estimate of the expense in Dublin to be 8*l.*, may I take it that you think that 1*l.* would cover the expense before the Sub-Commission?
Certainly, with this further advantage, that the one application would be taken as over-riding all the cases. If there were 40 tenancies, and the notices were defective in 20, you would get from the Sub-Commissioners the order to amend the particulars in the 20 cases without an affidavit, because your opponent would be on the spot; whereas if made in Dublin you must have 20 separate affidavits, 20 separate briefs, 20 separate fees, and 20 separate orders made up as the result of it.

361. Viscount *Hutchinson.*] Have you known many cases where these orders have been applied for in Dublin?
Very, very few. There were more prior to the issue of this order of April 1882 than I have known since; Rule 99 the Court held only to be applicable in cases where there was a sale, and very many notices calling for particulars under that rule were served in cases to fix fair rents, and the Court above held that it had no application to that class of cases.

362. Lord *Brabourne.*] What would be the objection to the tenant being bound in every instance to furnish particulars of the improvements he claims to have made, upon his first application to the Court?

I cannot see any difficulty whatever; the only possible practical difficulty that could be raised would be that, say, 75 or 80 per cent. of the notices had been already served.

363. The improvements upon a holding being alleged by a tenant to have been made by him, and his claim for a reduction of rent being founded upon them, do you see any reason why they should not in the first instance be before the Sub-Commissioners, so that the landlord might see on the face of the claim what he had to meet?

No difficulty whatever; no more than under the Act of 1870 where they were bound to put them on the face of their claim.

364. Viscount *Hutchinson.*] What has been the usual result of those applications of landlords to the High Court for amended particulars, or particulars to be furnished?

In some cases orders have been made for each party to bear their own costs; in some cases they have been made for the tenant to bear the costs.

365. I mean with regard to special applications for values under 10 *l.*?

I know of only two cases of that kind. The order has been made on a special ground, I think, founded on an affidavit by the agent that in conversation the tenant had alleged he had reclaimed or drained some seven or eight acres out of an acreage of 10 altogether.

366. In those cases where they were granted who had to bear the cost of obtaining the order?

In one case the costs were left to be dealt with by the Sub-Commissioners who heard the case. In the other case the landlord volunteered to pay the costs.

367. It is perfectly possible that the tenant should have to pay the costs?

O, yes. I do not know that that would follow in a case where the value was under 10 *l.*, because there he is not bound to furnish particulars under the rule, and the Court would hardly visit him with the costs if the application were made.

368. Because he was not bound to do it?

Quite so.

369. But it is possible that it should be so?

Quite.

370. *Chairman.*] The Sub-Commissioners, we understand, latterly have been furnished with a form to fill up with regard to the improvements that are proved before them; is that so?

Yes, they have, and those forms I happen to have. Three certified copies I brought with me. Those forms have been the result, I think, of the examinations before your Lordships of the Commissioners. These are attested copies. (*The documents are handed in,* vide *Appendix.*)

371. This schedule which you hand in gives the name of landlord and tenant, and the county. Then there are two columns; the first is headed "Tenants' improvements which have been taken into consideration," and the second is "Landlords' improvements which have been taken into consideration"?

Yes.

372. I observe that the three forms you hand in to me refer to holdings that are all, apparently, on the same estate in the county Armagh, and are signed by the same Assistant Commissioner. In the first column, "Tenants' improvements which have been taken into consideration," there is this simply, "Tenant-right which includes all improvements"?

Yes.

373. And one of them, "Tenant-right which includes all improvements, except

except a portion of buildings;" and in that return, under "Landlords' improvements," there is "part of buildings." Is that the usual course taken in the North of Ireland on the properties which are subject to tenant-right?

That form, so far as my experience goes, has only been used in the county of Armagh, and by a particular body of Sub-Commissioners.

374. Which Sub-Commissioners are those?
Messrs. Foley, Davidson, and Meek.

375. This is signed by Mr. Meek?
Yes.

376. Is he the Legal Sub-Commissioner?
No, Mr. Foley is the Legal Sub-Commissioner. In all the other cases where we have had returns like those produced at the hearing of appeals, they have been signed by the Legal Sub-Commissioner, that is to say, in other counties. In the county of Armagh all that were produced at the hearing of appeals have been signed by Mr. Meek, and by Mr. Meek alone.

377. Why was that?
We could not understand it.

378. Are you aware of any reason for that?
None whatever.

379. To return to the subject matter we were upon, is it customary with other Sub-Commissions, or any of the Sub-Commissions that you are acquainted with, to return it in that way, "Tenant-right which includes all improvements"?
No, in all other counties the returns which have come before me are given in this form; say, 250 perches of fences, 350 of drains, reclaimed, 3 acres; but they give no money value of any of those things, or any estimate of what they cost.

380. But they state what the improvements are?
They state what the improvements are.

381. How does it come that in the case of this particular Sub-Commission the improvements are not noticed?
We never could understand it; we brought the matter before the Appeal Court when it was sitting in Armagh, hearing appeals from a lot of those decisions, and we referred to that as being an illusory return for the Court, giving the Court no guide at all as to what had been deducted or dealt with; and no observation was made upon it when the judgment came to be delivered.

382. Are you aware that the Commissioners approved of this course, or did they disapprove of it?
They did not express any disapproval at all; whether the form has been altered since as a consequence of those hearings I could not say. We have had no case there upon appeal since.

383. Marquess of *Abercorn.*] Had Mr. Meek any legal experience to your knowledge?
None whatever.

384. What was he before he was a Sub-Commissioner?
He was a farmer, and he had been examined as a valuator for tenants in the first set of cases that were heard at Cookstown, in which I was concerned for the landlord myself.

385. Viscount *Hutchinson.*] This form, we have it in evidence, is prepared by every Sub-Commission on giving judgment, and we are told that you can obtain a copy of it?
Yes, since May, or June, or April, or May last, but as to that special form, as I mentioned to his Lordship, that way of filling it up is only used in the County Armagh, so far as I know.

386. Lord *Brabourne.*] You have known Mr. Meek some time, have you not?
Yes.

387. I am rather anxious to do the gentleman justice, because I am told that I used an expression concerning him which he does not think to be correct with regard to a speech of his. He was reported to me to have said before his appointment as a Commissioner, that his grandfather had carried a pike in '98, and that he was a chip of the old block. Are you in a position to add to his denial of having made that speech?
I heard the speech.

388. You heard him make use of the words?
I heard the speech during the last election in County Tyrone, when Mr. Litton was appointed Commissioner.

389. Can you tell us where?
In Cookstown; the precise date I could not exactly recollect.

390. But you were present?
I was present, before their platform. I was acting for Colonel Knox at the time.

391. Then I am afraid you cannot enable me to make any withdrawal of the statement I made before?
I am afraid not.

392. Have you noticed a change in Mr. Meek's decisions, or rather in the conduct of the Sub-Commission of which Mr. Meek is a member?
The decisions of the Commission upon which Mr. Meek and Mr. Davidson have been acting have been characterised by far larger reductions than those of any other body of Commissioners in Ireland.

393. I understand not only by larger reductions, but by a different process?
A different process altogether.

394. Have you detected any principle in their reductions?
Yes, it is a pure and simple arithmetical calculation.

395. That is a want of principle, is it not?
It is a want of principle, except the arithmetical principle.

396. Marquess of *Salisbury.*] What is the arithmetical principle that you have detected?
With Mr. Meek and Mr. Davidson's Sub-Commission the arithmetical principle is to take the valuation given for the landlord, and the valuation given for the tenant; add the two together, and divide them by two, and then you are within a shilling or two of the judicial rent. Of course the Committee will not take me as stating absolutely that that is what they do, but it is a curious thing, that if you take up the cases and analyse them, and work them out in that way, you arrive exactly at their results.

397. You do not state it as more than a coincidence?
A curious coincidence.

398. *Chairman.*] I observe that on this matter of the form before us, Mr. Litton on his examination said, "I may mention that between the North and South of Ireland, it would of course require a different return. We would require a separate form for estates subject to the custom, and for estates not subject to the custom, and we have those very forms before us in course of preparation." Now, has there been any difference made?
There is no difference, I believe, in the form or the print of the form.

399. Has there been any difference made?
None whatever.

400. I observe again that Mr. Litton is asked the question, "What would the difference be with regard to a place subject to the custom," and he answers, "We

"We would ask the Sub-Commissioners to note the value of the tenants' improvements included in the amount fixed by the custom as including his improvements and good-will; that is the value of his tenant-right." In the case before us, the Sub-Commissioner has not noted, I observe, the value of the tenants' improvements?

Certainly not, and we have asked for that to be stated, either in Court or on the face of the decision numerous times, and they have always declined to do it; and the fallacy of that return is this, that when we seek on the hearing of cases to give evidence as to the general value of tenant-right upon an estate, the Sub-Commissioners exclude the evidence as not bearing upon the particular holding. Unless the holding itself has been the subject of sale, you have no other means of proving what the tenant-right upon the property is, and that is a class of evidence that was always admitted under the Act of 1870. If we are able to prove that the tenant himself has purchased, perhaps within the last five or six years, paying (as they very often do), 20 *l.* to 30 *l.* an acre for the tenant-right, there is no regard paid to that class of evidence at all.

401. Viscount *Hutchinson.*] None whatever?

None whatever; so that from the return that is given there, you do not know what tenant-right has been taken into consideration, whether it is the tenant-right established on the estate by the old rule of the office, or the actual amount the tenant gained in the open market.

402. *Chairman.*] I want to know this. In the cases which came before this Sub-Commission, and which are reported on in this way: "Tenant-right which includes all improvements," was part of the evidence that was brought and received by them, what the value of the improvements was?

Yes, they went into all that in the tenants' evidence, but when we sought on the other side to show what the value of the tenant-right at the existing rents was on this particular estate, that was excluded on the ground that it did not apply to the particular holding they were then inquiring into.

403. What was your object in going into that, that is to say, showing the value of the tenant-right?

To show that, if the farm, subject to the existing rent, could bring in the market in years of depression, such as 1880 and 1881, from 21 to 35 years' purchase, it was a fair argument to use before the Court, that that could not be an unfair rent. If it was an isolated sale, of course it would not be open to that argument, but when we could show that fact, overriding an entire estate, we considered that we were justified in founding upon it the argument that if it was not worth it, that price would not have been paid for it.

404. Marquess of *Abercorn.*] So far from being an advantage in the case of the landlord, it would in that way make against him?

Yes.

405. Instead of being taken as proof of low rental, it was taken as proof the other way?

It has been over and over again stated from the bench by the Sub-Commissioners that those fancy prices that were paid by the tenants, were to be no criterion at all with reference to the history of the holding; that they were, in fact, land mad at the time, and that they were not to be visited with the consequences of their own folly.

406. *Chairman.*] I must ask you to come back to the forms, for I am sorry to say I do not yet understand the course that was taken. You say that evidence was tendered by the tenant, and received as to the value of the improvements?

Yes.

407. Then the return of the Sub-Commission is "Tenant-right which includes all improvements"?

Yes.

408. And yet you say the evidence of the landlord as to the value of the tenant-right was rejected?
Yes, that is quite so.

409. On what data did the Commission arrive at their verdict here?
That is the point. Mr. Monroe and myself in the case of the Cope Estate appeared on appeal, and we put it to the Appeal Court, whether the tenant-right taken into consideration there was the office rate of the tenant under the Act of 1870 (which was 10*l.* an acre), or the actual amount received by the different tenants which was from 25*l.* to 28*l.* an acre.

410. Was any light thrown by the Court of Appeal upon it?
None whatever.

411. The finding of the Sub-Commissioners was simply affirmed?
Affirmed, and affirmed with costs.

412. Have any of the various Sub-Commissions that you have practised before laid down any principle, or announced any principle upon which they proceed?
None whatever. They quote the words of the section of the Act, "having regard to all the circumstances of the holding and its history," or "my colleagues having inspected it, we are of opinion that the fair rent should be so and so." That really is the formula that is adopted in 99 cases out of 100.

413. Have you ever asked them what the principles were upon which they proceeded?
Over and over again. I recollect being concerned in Dungannon, for the Earl of Raufurly, there were some 13 or 14 cases actually heard, and some 60 or 70 other tenants had served notices. His Lordship was anxious if he could arrive at any idea on which the decisions were based to make arrangement with the other tenants out of court and save them and himself the delay of hearing. I may mention what the view was that we entertained. We wished to settle with the others, and asked the Sub-Commissioners to declare in their judgment in mercy to both landlord and tenant, the principles upon which their decision was based. A few days afterwards, when Mr. Wylie came to give the decision he read a written judgment in which he characterised my demand as a demand made, by some one, either wilfully or affectedly ignorant of the principles on which the Court acted. That judgment was handed down to the reporters immediately after it was delivered, and appeared the next morning in the papers. When we were arguing the Cope cases on appeal in Armagh, and endeavouring to elucidate some principle there to guide Mr. Templar the agent, I referred to that as having taken place in Dungannon, and Mr. Justice O'Hagan expressed great surprise that any Sub-Commissioner should have made use of any such expression at all.

414. Did Mr. Justice O'Hagan supply the defect; did he inform you of the principle?
Not at all.

415. Then in the result, even supposing you do not know the principle upon which they proceed, have you been able to arrive at anything like an arithmetical principle on which they have proceeded?
Yes, I have analysed a large number of cases in which I have been myself concerned, and I find that by three separate arithmetical processes, you can arrive, within a few shillings, at the actual judicial rent over different parts of the country.

416. Is that a formula that will apply to every case?
I have taken sets of cases upon estates indiscriminately from my notes, and they come out (as I can show you), within a very fractional amount at the sums that were fixed as the judicial rents in the cases.

417. Marquess of *Salisbury.*] There is not only the arithmetical process you mentioned just now, but two other processes; is that what you mean?
Two other processes.

418. What

418. What are they?
They are these; some of the Sub-Commissioners seem to take three sets of figures to deal with, and they take a third of them, and get the judicial rent in that way.

419. *Chairman.*] Do you mean that they add up the three sets of figures, and divide them by three?
Divide them by three. Others take four sets of figures, and divide them by four, but Mr. Meek and Mr. Davidson take a far more simple process, because they only bother themselves with two sets of figures, and divide by two. If your Lordship wishes, I can hand this document in as part of my evidence, but I will just read one or two items out of it. "Particulars of decisions pronounced by Messrs. Fitzgerald, Comyn, and Mahoney, in Armagh, February 1882, in the estate of J. A. M. Cope, esq." Here is the very first case. They deal with three sets of figures; "Poor law valuation, 13 *l.* 15 *s.*; valuation given for tenant, 6 *l.* 18 *s.* 9 *d.*; valuation given by landlord, 13 *l.* 17 *s.* 8 *d.*" Those three, added together, make 44 *l.* 11 *s.* 5 *d.* One-third of that is 11 *l.* 10 *s.* 6 *d.*, and the judicial rent in that case is 11 *l.* 10 *s.*

420. If this had been known before, any one of the three factors might have been made larger, might it not?
As a matter of fact, when I discovered this process, I, for two or three landlords, declined to give evidence of valuation altogether. I thought it was much wiser to leave them with only two sets of figures to work with, than to give them a third.

421. The landlord has a great advantage over the tenant, has he not; the tenant can only go down to zero, but the landlord may go without limit?
That is so; I give, in the first page of this return, the reference to the Cope cases. They are 18 in number, and the tot of the calculation, as I have suggested it, makes 244 *l.* 4 *s.*; and the tot of the judicial rent in those cases is 248 *l.* 1 *s.*; making a difference in the 18 cases of 3 *l.* 17 *s.*; and if you bear in mind that the judicial rents are always even sums, that is, either pounds, 10 *s.*, or 5 *s.*; they never go into pence; you can easily understand that in 18 cases you may account for the 3 *l.* 17 *s.* very satisfactorily within a few shillings.—(*The document was handed in, vide* Appendix.)

422. Marquess of *Abercorn.*] Notwithstanding the decisions of Mr. Fitzgerald, was he not supposed to be so favourable to the landlords that some influence was used to remove him, and has he not been removed?
He has certainly been "removed."

423. He was supposed to be too favourable to the landlords, was he not?
So I understand. He and Mr. Mahoney were on the first round in Tyrone and Armagh. Then Mr. Fitzgerald was announced to sit again in Tyrone; but a few days before the sitting commenced he was changed to another part of the country.

424. He has since removed altogether, has he not?
He has resigned since then.

425. Lord *Brabourne.*] Could you detect any difference in the decisions after the leaving of Mr. Fitzgerald?
There was a different body of Commissioners altogether.

426. Could you detect any difference in the decisions of that Sub-Commission after Mr. Fitzgerald left?
None, until we come to Messrs. Davidson and Meek. I have given in that tabulated return similar cases heard before the next Sub-Commission in the next county.

427. What I meant was this: after Mr. Fitzgerald's directing mind had been taken from that Sub-Commission was there a difference observable in the decisions?
Certainly, in the County of Armagh. The Cope estate cases are an illustration of that. Messrs. Fitzgerald's Commission had one set of cases before them,

them, and they made reductions averaging about 11½ per cent. In those cases the tenants appealed, and the rents were confirmed by the Appeal Court. Mr. Monroe and myself stated, on the part of the landlords, that we were quite willing to let them have that reduction; but Mr. Justice O'Hagan stated that if we had applied for an increase, or to bring them back to the old rent, the Court would have done it. The decisions of the next Sub-Commission that came that circuit were such that on farms immediately adjoining the ones which have been already dealt with, the reductions were from 23 to 27 per cent.

428. On the same class of land?
On the same class of land, and in the same townland; and I brought over with me (I thought it might be an advantage) an Ordnance sheet, upon which the holdings that were dealt with at the first hearing are coloured pink and the ones dealt with at the second hearing are coloured blue, that sheet showing that they interlap one another.

429. That was after Mr. Wylie succeeded Mr. Fitzgerald?
It was (*the Ordnance sheet was handed in, vide* Appendix).

430. Viscount *Hutchinson.*] In the first series of cases you alluded to, as to which you said Mr. Justice O'Hagan said that if you had asked to increase the rent he would have been prepared to grant it, what was the reduction made by the Sub-Commission?
Eleven per cent. on the average.

431. And do I understand you to say that the very same class of land was subsequently treated by the Head Commission on a different basis?
The reductions were from 23 to 27 per cent. The pink shows the first set of holdings, the blue shows the second set, those being in the same townland, and there the reductions were from 23 to 27 per cent. In all those latter cases the landlord appealed, and the judicial rents were confirmed by the Court of Appeal.

432. By Mr. Justice O'Hagan?
By Mr. Justice O'Hagan.

433. Lord *Brabourne.*] Was there any appeal against the larger reduction made on the same land?
The landlord appealed in those, and the tenants appealed in the first set of cases.

434. The superior court having justified the previous decisions of 11½ per cent. reduction, what course did they take in regard to the others?
They confirmed the reductions of 23 to 27 per cent. in the other cases, getting out of the difficulty of the first set of cases by stating that they dealt with every single case upon its own individual merits.

435. They affirmed equally the 11½ per cent. reductions, and the reductions above 20 per cent.?
Yes, certainly, the last reductions being confirmed against the landlords with costs. I may mention that that estate is one as to which we were able to prove that the holdings had been subject to leases which were executed between 1760 and 1790, and the rent reserved in those leases, except in one case out of 43, had never been changed even on the fall of the leases; the tenant-right had gone up from 1870 to 1882, from 15 *l.* to 27 *l.* and 28 *l.* an acre, and that on the old rents.

436. *Chairman.*] Whose property was that?
Mr. Cope's.

437. What is your experience with regard to the claims made by tenants for improvements as to fences. Are claims frequently made on the ground of making or removing fences?
Yes; fences form the larger portion of the claim in each case, and when Mr. Davidson and Mr. Meek were sitting first, in Armagh, they always excluded from their notes any evidence as to the removal of fences.

438. Did

438. Did they allow the evidence as to making fences?
As to making fences, they did. We always contended on the part of the landlord that that was to be limited by two considerations; first, that they should be satisfied that the making of the fences added to the letting value of land, and, secondly, that they were made within the time covered by the Act of 1870.

439. Lord *Tyrone.*] Was any date given in these particulars of improvements?
Very seldom.

440. From your answer to a previous question I should anticipate that you suppose the date to be most necessary?
Absolutely necessary. The absence of that drives us into a cross-examination in order to get the date; and then you get vague evidence such as "Oh, it was within the last fifteen or twenty years," or something of that kind.

441. *Chairman.*] You were, I think, about to say that there had been some changes in the practice as to the fences?
Yes. In other counties they have taken into consideration, from the start, the removal of fences, as well as the making of fences, and when the question was asked upon what principle that was done the only answer we got was, that when a fence was removed there was so much land for arable purposes added to the holding, and that we were getting rent upon the acreage of it; and, therefore, it was reasonable to allow the tenant for clearing it. That was the only justification. When Mr. Foley, who adopted that course in Armagh of excluding the evidence given with regard to the pulling down of fences, was removed to Tyrone, he immediately fell into the course that had been adopted there, and now he takes notes about the removal of fences as well as making them.

442. Since his removal?
Yes, since his removal. Perhaps your Lordship would allow me to call your attention specifically to one of the returns upon this document. It is the one at page 4, of Messrs. Foley, Davidson, and Meek's Commission upon the Earl of Gosford's estate. The other three sheets are the particulars of decisions in which the calculation was made by adding three together. This sheet deals with the process that has been adopted by Messrs. Davidson and Meek, which is to take two sets of figures, the valuation given by the tenant, and the valuation given by the landlord, alone.

443. Is that since Mr. Davidson's removal?
No; when Mr. Davidson and Mr. Meek were both in Armagh, together with Mr. Foley. They add those two together and divide by two. Here is the very first case in the list, 24*l.* 14*s.* valuation for tenant, 38*l.* 17*s.* 9*d.* valuation for landlord; total 63*l.* 11*s.* 9*d.*; the moiety of that is 31*l.* 15*s.* 10½*d.*, and the judicial rent is 32*l.* In 24 cases there is a difference between that mode of calculation and the judicial rent of altogether only 8*l.* 9*s.* 4½*d.*, and of that 5*l.* 7*s.* 8*d.* is accounted for in one case, where the buildings were held to be the landlord's, and rent was put upon them; so that in fact in 24 cases there is a difference of just 3*l.* 1*s.* 8*d.* between that mode of calculation and the judicial rent.

444. Is that mentioned on the return you have banded in?
It is.

445. Lord *Brabourne.*] It is as if they had just added the figures together and split the difference?
Exactly.

446. Marquess of *Salisbury.*] Who has the credit of having discovered this enigma?
Well, I take that credit.

447. We have examined more than one counsel, I think, who has told us that it

it was utterly impossible to explain what the principle was on which the Commissioners decide?

I may mention that my attention was drawn to the possibility of that construction of it, by two cases heard in Castlederg before Messrs. Wylie, Cunningham, and Ellis in June 1882, on Lord Gosford's estate. It was the similarity of those cases that drew my attention to it first. Then I began to work it out, and I have about 450 cases in which the same result follows; but I do not wish to trouble your Lordships with all the tabulated forms.

448. Do you imagine that that line has been laid down by the Head Commissioners, or that it is the product of the ingenuity of the Sub-Commissioners themselves?

I would not like to venture an opinion upon that. There are two cases I have here which were heard down in the county of Wexford by the Sub-Commission, of which Professor Baldwin is a member. There they have adopted the course of taking four figures. They take the old rent, the poor law valuation, the valuation given for the landlord, and the valuation given for the tenant; they divide that by four, and the amount comes out as I have it here. I was not in those cases myself, but I have verified the particulars from the documents. The old rent is 18 *l.*, the poor law valuation 12 *l.* 15 *s.*, the valuation for the landlord 19 *l.* 10 *s.*, the valuation for the tenant 13 *l.* 2 *s.* 8 *d.*; total 63 *l.* 7 *s.* 8 *d.*, and one fourth of that is 15 *l.* 16 *s.* 11 *d.* The judicial rent fixed was 15 *l.* 15 *s.*

449. Lord *Brabourne.*] Do you think there is, practically, any principle which you could lay down as the principle upon which the Sub-Commissioners act?

I do not think there is any earthly principle, except that of the arithmetical one.

450. *Chairman.*] That is a principle, is it not?

There is none except that, in my opinion.

451. Marquess of *Salisbury.*] Then the time occupied in hearing the whole of the evidence is so much waste time?

Perfectly; that is so patent to those acting for both landlords and tenants that the cases are run through very rapidly now, nobody troubling their heads really with analysing the evidence very much.

452. Then the excursions upon the land, and the tests with the walking stick, and the rest of it, are also a waste of time?

Perfectly so.

453. Marquess of *Abercorn.*] Suppose the landlord put an extra value upon his estate; would not that make a difference in their calculation; would they find that out?

They do not seem to trouble themselves about analysing the figures, so far as I can judge, from the figures that I have had.

454. They do not attempt to analyse them, you think?

They do not.

455. Lord *Brabourne.*] Supposing you are accurate in your supposition as to the principle upon which the Commissioners proceed, then any landlord whose valuer is clever enough to put a high value upon his land, even though it be a fictitious value, must gain considerably over the man who does not do so, must he not?

Perhaps so; but it is equally well known by the tenant's valuer; so that you have the scale brought down on the other side to correspond.

456. Is it not the fact that the tenant can only go down to a certain point, and that the landlord can go very much higher?

Yes.

457. Therefore if that principle were acted upon, would it not have this effect, either

either that the landlords would gain considerably higher rents, or that the Sub-Commissioners would revise their method of procedure?

Generally speaking, the valuers who act for the landlords are, at all events, men with some character and reputation; they may of course make a mistake of a pound or so on a holding by an error of judgment, but they would not wilfully put a figure down, I respectfully submit, that would not bear examination; but the class of people produced by the tenants are co-tenants, and very often co-tenants upon the same estate who themselves have cases coming on an hour or two afterwards before the same Sub-Commission.

458. Then giving them credit for the best intentions, they would hardly be fair judges, you think?

Hardly; I think they would be looked upon as interested witnesses in any other court than the Land Court.

459. They are not impartial, you think?

Certainly they are not impartial.

460. Marquess of *Salisbury.*] Do the Sub-Commissioners ever pay any attention to the fact that the tenant has deteriorated the land?

Latterly, since the decision of the Court of Appeal in the case of Bell *v.* Robinson, they have purported to do so.

461. Do you think that they have done so substantially?

I do not think so. The way the case is worked is this; for instance, when Mr. Davidson and Mr. Meek were sitting in Armagh, with Mr. Foley as the legal Commissioner, everybody had the feeling that no matter what principle Mr. Foley laid down as to the necessity of admitting or rejecting evidence, Mr. Davidson and Mr. Meek just acted on their own idea, quite irrespective of his legal ruling altogether.

462. *Chairman.*] That leads me to ask you a question that I was about to ask; Mr. Davidson and Mr. Meek were the non-legal Sub-Commissioners, were they not?

They were.

463. Mr. Foley was the legal Commissioner?

Yes.

464. Do you know whether it was the practice on that Sub-Commission for the legal Assistant Commissioner to take any part in the valuing and putting a value on the farm?

None whatever. He has constantly said in the decisions from the Bench, that all the responsibility as regards the figures belonged to his colleagues; all that he sought to do was to keep the evidence in a legal shape and to give his opinion upon legal points that arose in the case.

465. Marquess of *Salisbury.*] And to those you think that his colleagues did not attend?

I am quite satisfied that they did not.

466. *Chairman.*] But putting that aside, then the decision as to the fair rent; that is to say, the decision as to the figures, was the decision of the two non-legal Commissioners?

Certainly.

467. Is it, according to your experience, the same with the other Sub-Commissions?

I think it has been since the very first round. I know that Mr. Fitzgerald, for instance, when he was in Tyrone on the first round, although he did not profess to know very much about land, used to go out with his colleagues always to visit the farms; and we have had cases in which Mr. Fitzgerald and Mr. Comyn, for instance, would give their decision as regards the figures in the case, and Mr. Mahoney would express a different judgment so far as the figures were concerned; but that has never occurred since the first round.

468. But Mr. Foley, you say, stated it from the bench?

Yes, over and over again.

469. It was stated to this Committee in evidence by Mr. Reeves, one of the Sub-Commissioners from the south of Ireland, that that was the view that he took;

took; that he considered the responsibility of fixing the rents was the responsibility of his colleagues, and that he only attended to points of law; is that consistent with your observation of other Sub-Commissions?

That is what is done, and avowedly done, by Mr. Foley; I believe it is actually done by the others, but they do not avow it so distinctly.

470. Was Mr. Meek a valuator of land before he was a Sub-Commissioner?

Yes. He only valued subsequently to the passing of the Land Act. He was examined as a witness for tenants on the question of value on the first round at Cookstown, and in a case in which I was concerned myself.

471. He was not a valuer before?

He had never valued land before the Act of 1881. I have here a few of the figures which he gave, contrasted with the judicial rents that were pronounced in the cases, if your Lordships would like to have them.

472. The valuations which he gave, you mean?

Yes, for tenants when he came forward.

473. And the judicial rents fixed in those cases?

The judicial rents fixed in those particular cases.

474. Not by the Sub-Commission of which he was a member?

No; they were fixed by the Sub-Commission of Messrs. Fitzgerald, Comyn, and Mahoney.

475. What are they?

Here is one: 9 *l.* 7 *s.* 5 *d.* was Mr. Meek's valuation; the judicial rent was 13 *l.* Then these are some others:—

	£.	*s.*	*d.*		£.	*s.*	*d.*
Mr. Meek's valuation	9	7	5	Judicial rent	13	–	–
„	3	13	3	„	4	10	–
„	3	14	6	„	5	–	–
„	6	10	–	„	7	15	–
„	5	16	6	„	8	–	–
„	6	17	8	„	9	–	–
„	3	–	–	„	4	15	–
„	7	–	–	„	7	10	–
„	8	17	5	„	14	–	–
„	5	17	6	„	7	10	–
	£. 60	14	3		£. 81	–	–

The total of his figures in this particular estate make 60 *l.* 14 *s.* 3 *d.*, and the total of the judicial rent for the same holdings was 81 *l.*

476. Earl of *Pembroke and Montgomery.*] And after that they made him a Sub-Commissioner?

Yes.

477. *Chairman.*] Then you must remember that his value, for the tenant, was of necessity the lowest factor in your formula of three or four figures?

Yes, I have excluded that set of estates altogether from this tabulated form. I merely mention that to show the view he entertained as a valuer for tenants, and the view, possibly carried out now in the decisions by the Commission of which he is a member.

478. Do you know whether the legal Sub-Commissioners have any instructions from the Head Commissioners as to how far they shall take part in the valuing?

I do not think they have any instructions. One of the general rules provides that the Sub-Commissioners, or any two of them, are bound to visit the farms; but beyond that I do not think there are any instructions.

479 In any other respect is their action controlled, in your opinion?

I think it is very largely controlled; and I found that opinion upon what occurred when the Court valuers were attached to the Sub-Commissioners Courts. The very first round in which that took place in the North, the sittings were in Strabane, and Mr. Foley was the legal Sub-Commissioner. When we appeared there on the first day, I made an application on the part of my clients to

to know what would be done with reference to the Sub-Commissioners' Court Valuer's report when it was produced, and I asked that the same rule should be adopted with reference to it as that which the head Court itself had ruled in the case of Adams *v.* Dunseath which was heard in Belfast, should be adopted in the Appeal Court. They decided there, that before the advocates were called upon to address themselves to the evidence in each case, they should be furnished with the report of the valuer, and I asked that the same thing should be done in the Sub-Commission Court. Mr. Foley stated that he felt himself bound by the decision in Adams *v.* Dunseath, and he would certainly act upon that unless he were controlled from head quarters. That was on a Monday. He said he would write up to the office in Dublin about it. He did so on the Monday, but a letter from the head office (which he read in open court on the Tuesday morning) crossed his letter, and that contained a specific direction to the Sub-Commissioners on no account to show those reports to anybody until the cases were entirely over, and the decisions were pronounced. I renewed the same application before Mr. Wylie the following week in Armagh, and with exactly the same result; so that the view we took of it was that by this circular from the head office to the Sub-Commissioners the Head Court were over-ruling their own solemn decision, a decision pronounced when they were sitting as a court of appeal at Belfast on the very point at issue.

480. Have you had any trouble, or any controversy, on the subject of timber in these cases?
A curious point has arisen in relation to that. It is not, perhaps, directly under the Land Act, but we had a case in Dungannon in which an application to fix a fair rent was being heard, and in the course of the hearing it came out in cross-examination that the tenant had cut down timber on three or four acres of land on a part of the holding, and had sold that timber to a man who was subsequently produced to give evidence of the value of the holding for him. He sold the timber for 22 *l.* 10 *s.* Subsequently a process was brought in the county court against him for the value of this timber, and there the contention was raised by his solicitor, that under the operation of the Land Act of 1881, all the timber upon the holding, no matter by whom planted, or whose property it was before the passing of the Act, became the property of the tenant.

481. Who raised that controversy?
The tenant's solicitor put forward that contention, and Sir Francis Brady decided in favour of that contention.

482. That the Act of 1881 had given the timber to the tenant?
That it had transferred the whole property in the timber to the tenant.

483. What section was relied upon for that?
Section 5.

484. What does that say?
The clause referred to is this. During the continuance of a tenancy "the tenant shall not do any act whereby his tenancy becomes vested in an assignee in bankruptcy." Then "the landlord, or any person or persons authorised by him in that behalf (he, or they, making reasonable amends and satisfaction for any damage to be done or occasioned thereby), shall have the right to enter upon the holding for any of the purposes following;" and amongst the rest is "cutting or taking timber, or turf, save timber, and other trees planted by the tenant, or his predecessors in title;" and Sir Francis Brady has held under that section (as we consider wrongly) that no matter who planted the timber, the moment the statutory term of the holding is fixed that moment the property in the timber passes to the tenant.

485. And he may cut it down?
He may cut it all down, as he did in this particular case.

486. Was that made the subject of appeal?
It is under appeal at the present moment.

 487. Were

487. Were you engaged in Commander Dawson's cases, before Mr. Foley, at Cookstown?
I was, in the earlier part of this month.

488. Have they been decided?
Yes, the decisions have been pronounced in those cases; and there is a very curious thing with reference to them.

489. What was the extent of the reductions there?
The reductions were very small, but the peculiarity about those cases was, that we applied, in all the cases except three, that the existing rent should be increased.

490. The landlord applied you mean?
The landlord applied, and in contending with that in the judgment, Mr. Commissioner Foley stated that our own valuer in three cases had deposed to the necessity for substantial reductions. There were 14 cases altogether, and what he characterised as "substantial reductions" are as follows: the rent in the first of them was 7 *l.* 3 *s.* 3 *d.*; the valuation given for the landlord in that case was 6 *l.* 15 *s.* 3 *d.*, being a reduction of 8 *s.*, which Mr. Foley calls a substantial reduction; and the reduction the Sub-Commission made when they came to give their decision in the case, was 23 *s.* 3 *d.*; so that if 8 *s.* is "substantial," perhaps the Committee would have an opportunity of ascertaining what 23 *s.* 3 *d.* would be. In the second case the rent is 5 *l.* 2 *s.*; the figure of the valuator for the landlord was 4 *l*, 18 *s.* 2 *d.*, that being a difference of 3 *s.* 10 *d.*; and in that case the Sub-Commissioners have made a reduction of 17 *s.* in the rent. In the third case the rent was 13 *l.* 4 *s.* 8 *d.*; the valuator's figure was 12 *l.* 17 *s.* 1 *d.*, which is 7 *s.* 7 *d.* less, and in that case the Sub-Commission have made a reduction of 2 *l.* 14 *s.* 8 *d.* I may mention that in the judgment the Commissioner, Mr. Foley, complimented the valuer produced for the landlord as being a man of considerable integrity and ability, and character. I have a report of the judgment here. He also said, "My lay colleagues, who have carefully inspected the holdings, inform me that the management of this estate appears to them to have been generous to a degree, quite exceptional, in their experience in this county." The landlord's valuer he describes as "a gentleman of well-known ability, character, and experience;" and that that gentleman admitted in three of the 13 cases a "substantial reduction."

491. Marquess of *Abercorn.*] Who was the valuer?
Mr. Scott, of Omagh, assistant county surveyor.

492. Viscount *Hutchinson.*] You have told us a great deal about never getting any reasons from the Sub-Commissioners; I suppose it is the general practice to ask for reasons, is it not?
Invariably.

493. Do you always press the Court to give reasons?
Always.

494. I ask the question, because we have it in evidence from Mr. Reeves that reasons are not given, and that he does not give reasons because he has discovered, somehow or other, that the parties do not want them?
That does not apply to any of the counties in which I have been working, certainly.

495. Marquess of *Salisbury.*] It is generally understood there that the parties will be glad to have reasons, you think?
Certainly; and we always put the necessity for it before them, because we are dealing with estates in which a lot of other notices have been already served, and the cases not yet listed; and we always state that the object of asking for this information is to guide us in settling with other tenants out of Court before the cases come on.

496. By which great expense would be saved?
Enormous expense. I may mention with reference to the cases which are listed from time to time, that a tremendous amount of expense is incurred by the

the continual adjournment of them. Cases appear in the list for a town, and they are not reached at all, and stand over to the next list; very often to a subsequent list, and the expense of preparing for hearing is gone to in each case sometimes two or three times, before they are actually reached. I have with me here a list of cases now ready for hearing at the present sitting in which the cases that were adjourned from the last sitting have the letter "A" attached to them; and in one list that I have here there are 64 cases from the list of the last sitting: and to my own knowledge 40 of those have been on the last three lists for the same town.

497. Lord *Brabourne.*] Then, if it is alleged that owing to the operations of the Land Act. up to the present time, a large number of cases have been settled amicably out of Court, does that in your opinion arise from the enunciation of any satisfactory principle to both parties upon which they have been settled, or from a feeling on the part of landlords that they had better make terms, because they might come worse off if they went into Court?

Yes; and very often on the part of tenants, who are disgusted with the delay in hearing their cases.

498. The result is that there have been a great many cases settled out of Court, is it not?

There have been a great many, but I do not think in County Armagh, or County Tyrone, that the cases have been settled at all to the number reported in the papers.

499. Must not that number be reduced to a certainty in the case of a Parliamentary Return?

That would be so if they were all reduced to a formal agreement, and that agreement filed in Court, but very often cases are settled without any agreement in writing, or without being filed.

500. Is that a satisfactory settlement, or a settlement that can be permanent?

It is not satisfactory in the interest of the landlord; and it is against the advice of counsel and solicitor that it has ever been done.

501. I suppose if there is any agreement of that informal kind the cases might still be brought into Court?

They might still form the subject of a notice.

502. You cannot call that a real settlement, can you?

So far as they act upon it, it is; it is a settlement to the extent of withdrawing the originating notice.

503. It is not a legal settlement?

It is not a legal settlement, or a binding settlement.

504. Marquess of *Salisbury.*] Do you mean to say that the return of cases settled out of Court includes cases of that kind?

No, I do not think so. I think the Land Commission could only be conversant with those cases where notices have been served upon them to fix a fair rent, and information given of those notices having been withdrawn.

505. Lord *Brabourne.*] I understand you to say that it is within your knowledge that a great number of cases have been unsatisfactorily settled, or, I would say, settled in a manner that is without any legal security?

I know cases where this has occurred; the rules provide that the agreement for settling a case between landlord and tenent should be filed in the Land Court within a month, and in one instance, recently, I found that the landlord for whom I was acting had had some 50 or 60 agreements signed five or six months before, which agreements were never sent forward to be filed, and are not now capable of being filed.

506. In that case notices might still he served on the landlord, and he migbt he put to further expense; is not that so?
He might, of course; that is a technical possibility.

507. Those you do not think are included in any Parliamentary Return?
I do not think so.

508. Marquess of *Salisbury.*] I want to understand whether the Parliamentary Return included cases in which notice has heen given, and afterwards withdrawn, although no agreement is filed in Court?
I am quite sure the Return embraces that class of cases.

509. And therefore the Return is wider than the actual number of those which are judicially settled?
Settled under agreement and filed, certainly.

510. Lord *Tyrone.*] I wish to ask you ahout the improvements; when you apply for a statement of those improvements is it frequently given too late to he of use, in a very great number of cases?
It is very often handed to us on the day the cases are to come on in Court.

511. Under those circumstances, would you not apply for an adjournment of the case?
You may apply of course, and you would have very fair ground for doing it, hut it has heen always a question of prudence more than anything else. It is open to you to state, "if our valuers had had the particulars when on the land they would have analysed them, and seen whether the improvements were there or not; now, we can only leave it to your investigation of the farm when you go out, and to cross-examination in Court." In Commander Dawson's cases the particulars given gave no dates, and the evidence, when it came to be given in Court, estahlished that all the things claimed as improvements had heen made hetween 40 and 50 years ago. I contended, of course, that those were outside the Act altogether, under the definition of the Act of 1870; and then they get rid of deciding that point, hy stating that the alleged improvements made such a very little difference in the value of the holding, that they had thrown them overhoard, and did not take them into consideration at all.

512. Would not the decision in Adams *v.* Dunseath come in in cases of that description?
Adams *v.* Dunseath was a case, on the face of it, in which it was held not to be the suhject of the Ulster custom. I myself entertain the opinion that it is applicable to all holdings, for this simple reason; Adams *v.* Dunseath has laid down this principle: there heing no definition of the word "improvements" in the Act of 1881 you are hound to go to the Act of 1870 in order to find what they are. Then, the section which defines what improvements are is Section 4, which gives the tenant an alternative in making a claim against his landlord. He can either go in for the custom (if it is an estate suhject to the custom) or he can go in for the improvements, even upon an estate which is suhject to the custom; and, as a matter of fact, claims which were served under the Act of 1870 were always in that dual form. When the case came on to he heard the tenant was put to his election whether he would go upon the custom (as we call it) or upon the improvements; if he elected to go upon the improvements, then he would he hound hy the class of improvements indicated hy that section, which are: improvements made within 20 years of the claim, except as regards the reclamation of waste lands, and the erection of huildings. The only difference in my mind hetween the Act of 1870, so far as improvements are concerned, and the Act of 1881, is this, that under the Act of 1870, if a man was being dispossessed of his holding, he was entitled to he compensated hy the payment of a capital sum for the value of those improvements. Under the Act of 1881 his compensation is not the payment of a capital sum, hut the exemption of those improvements from liahility to rent; so that, in effect, it is compensation under either Act; the only thing is that it is paid in a different way.

513. Are

513. Are you aware whether the Sub-Commissioners in the north appear to have taken the decision in Adams *v.* Dunseath into consideration?

They have avoided ever deciding it. That was distinctly raised in these cases of Commander Dawson's.

514. Have they never taken it into consideration?

Never.

515. Has a case been sent up for appeal against any of their decisions on that point?

No, because there is nothing on the face of the decision to show that the judgment did or did not apply to the Ulster tenant-right. In those cases of Commander Dawson's, as I mentioned, the evidence was, that all those matters had been done 40 or 50 years ago. I raised the contention upon that at once, that being more than 20 years old they were outside compensation under either Act.

516. Lord *Brabourne.*] Under the 4th section of the old Act?

Under the 4th section of the old Act; and Mr. Foley characterised it as a very important question, which he would have to consider; but he got rid of the consideration of it in this way; "On the legal question raised by my friend Mr. Smith, as to compensation for certain fences which were claimed by the tenants, although the fences were admittedly aged over 30 or 40 years, my colleagues inform me that on inspection they found that any addition to the letting value of the holdings, in respect of the fences deposed to, would be so trifling or problematical that they have excluded them altogether from their calculations, and I am thereby, for the present, relieved from the luxury of solving a knotty legal question which had been raised." We had no actual decision, therefore, upon the question.

517. Lord *Tyrone.*] But has not the same question been raised before other Commissions?

It was raised in the Appeal Court in the case of an estate at Lifford; that is, before the head Court.

518. Was that a case where tenant-right existed?

It admittedly existed in that case.

519. Was that decided?

The point was not decided. They confirmed the judicial rents as fixed by the Sub-Commissioners, contenting themselves with doing nothing more than stating that after all the consideration they had given to the case and the history of it, they confirmed the rent; they said nothing whatever about the legal point.

520. They did not answer the question in the decision of that case?

No; it was argued on both sides, Mr. O'Doherty was acting as solicitor for the tenants and it was argued by him and by myself, but they gave no judgment upon it, good, bad, or indifferent.

521. At the present time no one is aware in Ulster whether the decision in Adams *v.* Dunseath is acted upon by them, or not, so far as you know?

There is no decision either by a Sub-Commission, or by the Appeal Court to show whether it does or does not.

522. *Chairman.*] In those cases you handed in, in the Schedule, where you made those arithmetical calculations, are all or any of them cases under the Ulster tenant-right?

They are all under the Ulster tenant-right.

523. Marquess of *Salisbury.*] Have you had any practice in courts in cases outside the Ulster tenant-right?

There were four or five cases heard in Armagh, relating to Mr. H. B. Armstrong's property, in which the Ulster tenant-right is not admitted to exist. There, the class of case contemplated by the rules came in as to fixing the selling value where the holding is not subject to the Ulster custom.

524. Viscount *Hutchinson.*] What course would be open to you in a case like that, where the legal point is argued on both sides, and the Chief Commissioner takes no notice of the argument, but makes a broad statement? You have a right to ask him to state a case, have you not?

They would decline to state a case upon this ground, that that particular point which you wanted to carry to the Court of Appeal had not been decided by them at all. They would say:—"We have decided this case upon other facts and other elements, and we have not thought it necessary to go into that particular point at all."

525. Lord *Brabourne.*] They, practically, as I understand you, excluded that particular point from the question of compensation, or rather reduction of rent?

Yes.

526. Lord *Tyrone.*] Do you anticipate that there will be very much difficulty when the first 15 years is out as regards these improvements?

Certainly; there is no record whatever kept of them now. Even the returns which are given by the other Sub-Commissioners outside of Armagh merely indicate a certain number of perches of fences, and drains, and reclaimed land, taken into consideration, but on what particular part of the farm those fences, drains, and reclaimed land are, there is no means of knowing. There is no map. In 19 cases out of 20 the tenants have no map whatever, and there is no record on the files of any court, or any means of ascertaining, at the end 15 years what has been taken into consideration when a tenant may come in with a new notice under the Act claiming over again what has been allowed at the present moment in the reduction of his rent. It only involves the necessity of saying it is within the last 15 years instead of the last 16 years.

527. Would not the agent or lawyer acting for the landlord be able to produce evidence of that?

Provided he got a statutory term of existence himself; but even supposing he was in existence there is nothing at all to show it. To take my own note-book for instance; I would have nothing but the fact that the man had put up 200 perches of fences; there is no guide to show where those fences are. They are not defined in any shape or form, as in field 1, 2, or 3, and there is nothing whatever to prevent the tenant at the end of 15 years setting up a claim for 200 more, and upon being asked the question: "Is not that the same 200 that you spoke about 15 years ago? he would say, Oh, no; I have done this in the last 14 or 15 years."

528. In all cases I have seen returns of in south of Ireland, it has been customary to give full details before the Court; that is not so in the north, you say?

Not at all. I was not aware that that had been done in the south. If it has been done in the south and not in the north, I suppose it is because tenant-right is supposed to cover them all, but if tenant-right is supposed to cover them all, no evidence ought to be gone into of specific improvements. It is like keeping books by double entry; first allowing a man to prove a specific sum spent on fences and drains, and allow for that out of the rent, and at the same time under the Act to preserve his tenant-right, which includes those very elements along with other elements.

529. You understand their decisions to be based rather upon taking whichever is most likely to be the element advantageous to the tenant?

To the tenant.

530. If the tenant-right is most advantageous to the tenant to take into consideration, that would be taken into consideration, and if the improvements are most advantageous they would be taken into consideration?

Yes; but they take them both. Our argument in the north is that they give the tenant the benefit of both; first they have the fact before them that at the existing rent the holding is capable of being sold, and has actually been sold, say for 10 or 15 years' purchase. That 10 or 15 years' purchase before the Act of

of 1881, would have represented the improvements; the good-will of the tenant and his buildings. Then having allowed him for that, and having decided first, that that was too high a rent, they come to deal with the rent itself, and they make a reduction from the rent in relation to a certain class of those improvements; they deduct, say, 2 *l.* a year off the rent in consequence of fences, draining, and reclamation of land. If the man were to sell that farm in the open market to-morrow, he would get the enhanced value for his tenant-right; he has been paid for the improvements by the purchaser and for the statutory term by his landlord.

531. Lord *Brabourne.*] Do you know any instance of sale of tenant-right since the operation of this Act?

Numbers of them.

532. Can you speak to instances in which the tenant-right has sold at a higher value than it had upon the same holding before the Act?

We had a case in the County Court of Armagh last sessions. It arose in administering the assets of a deceased party; a portion of the assets consisted of a farm held under a yearly tenancy. An order was made directing the sale of this farm and it was sold by the County Court Judge, and produced 35 *l.* an acre for the tenant-right, the rent being 1 *l.* 8 *s.* 6 *d.* an acre for the land.

533. Would not that go to show that you cannot take the value off land really, but that what you can do is to take the value out of the pocket of the landlord, so that the value will find itself somewhere, and in that instance in the increased value of the tenant-right?

Certainly, and that goes into the pocket of the tenant; in point of fact, I think anyone connected in the north would agree in this, that if a farm is well fenced, and well laboured, in the increased price the tenant gets for his tenant-right he is recouped for all that extra expense.

534. Would not that point to this conclusion, that the ultimate effect of this Act, though temporarily it might benefit the present class of occupiers, would be to leave the new generation of occupiers in as bad or a worse position?

In a worse condition, to my mind.

535. They would be equally encumbered, because they would come in having paid to the outgoing tenant, in tenant-right, what otherwise they would have paid yearly to the landlord?

Certainly; and there would be larger interest upon larger purchase-money.

536. To obtain that they would have to borrow a larger amount of money with which to purchase?

Certainly. I think Mr. Greer handed in a return in relation to Mr. Shiels' property which included a case that was heard at Omagh when he was speaking about the purchase of tenant-right. There is one case upon that estate which illustrates this point very forcibly. It is at page 292 of the second volume of the report. It was the case of John Cochrane; the notice was served in 1881. It was listed in the first list of cases for hearing at Omagh, but was not reached. Then it came on in the list for February 1882, and in the intermediate time the tenant who had served the notice sold the holding at the existing rent for the sum of 280 *l.*

537. *Chairman.*] How many acres were there?

There were 42 acres; and when the cases were on before the Sub-Commission I relied upon the fact of the purchase being so recent (within a month of the time of hearing), as showing that the purchaser was perfectly satisfied that he was getting the value of his money at the rent which was then on it, and the Sub-Commissioners acceded to that contention, and left the rent exactly as it was. The tenant appealed from that decision; and the Court of Appeal, the same argument being used before them, instead of leaving the rent as it was, made it 31 *l.* instead of 32 *l.* 10 *s.* 8 *d.*, notwithstanding the fact that it had been purchased within four months of the time when they were sitting.

538. Marquess of *Salisbury.*] You have spoken with reference to the prices of the holdings; have you had any experience of the price of the fee simple of land since this Act has been in operation?

The only way we can deal with that is through the sales in the Landed Estates Court. When sales have taken place at all recently the prices have not gone higher than 16 or 17 years' purchase. A large number of estates have been put up, and sales have had to be adjourned for the want of bidders. That was so in regard to one estate, I think I saw in the paper, in which the rents had all been settled by the Sub-Commissioners.

539. There they could not sell at 11 years' purchase, I think?

That is so.

540. *Chairman.*] Have any of the estates sold in the Landed Estates Court had judicial rents fixed?

Yes; one particular estate was put up three months ago; and, as his Lordship says, the highest figure offered for it was 11 years' purchase.

541. And it was withdrawn?

It was withdrawn.

542. Marquess of *Salisbury.*] You have not heard of any fee-simple transactions outside the Landed Estates Court, have you?

None.

543. *Chairman.*] What is the provision of the Act with regard to an appeal from the Sub-Commissioners?

The 44th section of the Act. It provides for a re-hearing.

544. The words are these, "That any person aggrieved by any order of one Commissioner, or by any order of a Sub-Commission, may require his case to be re-heard by all three Commissioners sitting together"?

Then there is a notice provided by the rules for appealing.

545. What is the rule on the subject?

Rule 65 in the code of rules issued.

546. The 48th form?

The 48th form, rule 65, "Any person aggrieved by any order of one Commissioner, or by any order of a Sub-Commission may, within one fortnight after the date of such order, serve on the opposite party and the Land Commission a notice, which may be in form, number 48, requiring his case to be re-heard pursuant to section 44."

547. Then the form 48 is, "I require my case to be re-heard before the three Land Commissioners sitting together"?

Yes.

548. In point of fact, on the appeals in the north, have the three Commissioners always sat together?

No; both in Derry and Belfast only two, I think, sat; Mr. Commissioner Litton being in Dublin.

549. Was that from illness or unavoidable absence?

From neither, but for the conduct of the administrative court in Dublin, Mr. Litton was left.

550. Nothing else?

There was a protest entered against the constitution of the Court in Derry by Mr. Colquhoun, who was acting for some of the landlords, on the ground that his absence was not within the terms of the Act at all, but Mr. Justice O'Hagan and Mr. Vernon, who were then the Commissioners, overruled that; but since Lord Monk has been appointed under the Arrears Act as a fourth Commissioner, there have been always three Commissioners sitting hearing appeals.

551. Viscount *Hutchinson.*] Which three?

They alternate. Lord Monk and Mr. Vernon, and Mr. Justice O'Hagan sat in

in the County Tyrone. Mr. Litton did not sit in the County Tyrone. Then Mr. Vernon sat with Mr. Litton, and Mr. Justice O'Hagan in Enniskillen.

552. *Chairman.*] The Act of Parliament and the rule speak of the parties having their cases re-heard before the Commissioners, and they speak of the hearing as if it was to be a re-hearing?

Yes.

553. Has anything been said in the High Court of Appeal with regard to the character of this re-hearing?

Yes, in the case of "Adams *v.* Dunseath" (which was the celebrated case) three of the judges laid down there the dictum that the case should be actually re-heard, all gone into, and that the Head Commissioners ought to form their own independent judgment upon the facts.

554. Can you refer to the passages; what did Chief Justice May say?

"That an appeal from the decision of the Sub-Commissioners to the Land Commissioners should be regarded as a re-hearing in which the whole case is open, and fresh evidence may be adduced; the tribunal of appeal should form its independent judgment upon the facts." And Lord Justice Fitzgibbon's judgment is in practically the same terms. "The determination of a fair rent is such a question as should be decided by the Court of Appeal; it should be a re-hearing, and the Commissioners should exercise their independent judgment in determining a fair rent."

555. According to your experience of the action of the Commissioners in the cases which have been brought by way of appeal, has there been a re-hearing of the case, and has there been the exercise of an independent judgment?

In the vast majority of cases, no. This is one of the lists which they issue for the appeal cases. It shows in columns the name of the tenant and the name of the landlord, and they have generally before each of the Commissioners (and the Registrar of the Court has also before him) one of those forms, and in this column the figure of the Court valuer's report is stated.

556. Before you put that in just let me ask you, what is the Court valuer?

There are four or five. I think there are six valuers attached to the Court of Appeal now, and they have some information with reference to the cases furnished to them before the Appeal Court sits. They visit the farms, and they make a report and send it into the Court. That is before the hearing of the appeal commences, and those reports are before the Court when the Appeal comes on.

557. Do you know what are the materials which are before the Court valuers; are there any materials before them except those they get on their visit to the farm?

The report which they give contains, on the face of it, the acreage, which must be taken from the originating notice which has been before the Sub-Commissioners; it also states the poor-law valuation, and it states what the judicial rent in the case is; those seem to be the materials that they have before them.

558. The judicial rent that has been fixed?

The judicial rent that has been fixed by the Sub-Commissioners.

559. Now will you hand in the Paper you are going to refer to.—(*The document is handed in,* vide *Appendix.*)

560. This is a list of appeals from the Sub-Commission listed for hearing at Armagh on Monday 11th December 1882?

Yes.

561. In the first column is the number of the list, then there is a column with the appeal number, then a column with the record number, then a column with the name of the tenant, then a column with the name of the landlord, then a column

a column stating which is the appellant, and then a blank column for observation?

Yes.

562. What were you going to say about the blank column?

In that blank column of the copies that are before the Court, and before the Registrar, is inserted the figure in each case, from the Court valuer's report.

563. The figure of what?

Of what he estimates to be the fair letting value of the farm, and nothing more.

564. Do you mean a fair letting value, or a fair judicial rent?

The fair letting letting value is the phraseology that they adopt always in their reports.

565. The "fair letting value"?

The fair letting value.

566. But what does that mean?

That is taken by the Court as being practically the rent.

567. That the tenant has to pay?

Yes.

568. The fair letting value there means an equivalent to the judicial rent?

Exactly. That figure is before them; and what occurs in the vast majority of cases is this: when the cases are called on, and the parties are asked who appears for the tenant, and who appears for the landlord, one of the Commissioners of the Appeal Court will ask, "Have you seen the Court valuer's figures."

569. Ask who?

The advocates on either side.

570. Ask the counsel, you mean?

Yes; if I am acting for the landlords, Mr. Justice O'Hagan, or Mr. Vernon, or Mr. Litton, would say, "Have you seen our Court valuer's figures;" we would, of course, say "no;" and then this list, with the figures on the face of it, would be handed down to us, and we look upon that as a tolerably good indication of—"You may occupy our time hearing those cases for two or three hours, but that is what our decision will be in the end." Then you are asked to make up your mind whether you will fight the cases through, or accept the confirmation of the judicial rent without any more particulars being put before you than those which are contained in the judicial valuer's report, and unless there is some question as to buildings being claimed by the landlord, or that allowances have been made by the landlord, for which he ought to get credit, it is a very risky thing to go on with the cases in the face of the intimation.

571. Before we go further with that, just let me ask you to explain a little. You say the letting value that the valuer puts down may be taken as his term for what he thinks should be the judicial rent; is that so?

Yes.

572. In order to get at the judicial rent, as I understand it, there are two elements to be considered. There is, first, what the land would let for; that is to say, what is the value of the land if there was no question of improvement; that is the first element, is it not?

Yes.

573. Then, secondly, what deduction is to be made from that in respect of improvements of which the tenant is to have the benefit?

Yes.

574. And deducting the second from the first brings you to the judicial rent?

Yes.

575. How does this Court valuer get at the second of those?

He

He does not profess to get at them at all, and that is the answer we have got always from the bench. Mr. Justice O'Hagan has laid this down, that the figure which the Court valuer's report shows as a fair letting value is, in point of fact, the full rent from which they are to make deductions in respect of improvements, if such improvements are established for them.

576. Who are to make deductions?
The Commissioners themselves. I mentioned just now what Mr. Justice O'Hagan has always laid down, but my own view of the reason of it is this: in the majority of reports that are produced, and are available for us, they go into the whole question of improvements which are alleged, and in very many instances they state, we think a deduction of 10 *s.* a year, or 1 *l.* a year would be sufficient for those improvements; and very often they state, we consider the fair letting value so much, and then they added on in several of the cases of his Grace the Duke of Abercorn, which were heard at Lifford, "This would leave a substantial interest to the tenant." That was done in a number of cases that came forward, not only upon his Grace's estate, but upon others.

577. I have not got your answer to my question?
Perhaps I have misunderstood your Lordship.

578. Where the valuer speaks of improvements, and allows 1 *l.* or 10 *s.*, or any other sum, how does he get at the fact of what the improvements are?
Whether or not he is furnished with these certificates which are now given to the Court of Appeal before he makes his valuation, we do not know. That is the return of the Sub-Commissioners as to what they have taken into account in fixing the rent. We have asked the question, but have never got an answer as to whether that was one of the documents furnished to the Court valuer. The only other means he has of gaining any knowledge about it is from inquiry upon the land, and very often their visits are made upon the land on the very day probably that the agent, who lives 10 or 15 miles away, gets notice that they are going to visit.

579. But any inquiry which he makes on the land of anybody, whether the landlord's agent or the tenants, must be an inquiry which would be answered not on oath?
Certainly.

580. Simply in conversation?
It is pure and simple hearsay.

581. But supposing he was supplied with one of those returns furnished by the Sub-Commissioners, with a column about improvements, would that inform him really what those improvements were?
Certainly not without inquiry upon the land, to see where they were; he would have to have them pointed out by somebody,

582. The statement of improvements is so general that, until he came to apply it to the land, he could not understand what it meant?
Certainly.

583. So that in any case the valuer must really take evidence, as we call it?
He must, and that is in the absence of the litigants, and not on sworn testimony at all.

584. The result is, you say, that the Court of Appeal in this re-hearing act upon the hearsay evidence obtained by their valuer upon the land?
Practically their decisions are given upon the Court valuer's figures, irrespective of the evidence altogether.

585. Which figures you say cannot be arrived at, except upon what is hearsay evidence to the judges, taken on the land?
Certainly, and that may be utterly contradictory of what has been proved in evidence before the Sub-Commission by the very same people. The Court of Appeal has tried to enunciate a principle that what the Court valuers do is to give them their estimates of the value of the lands as they stand, but the reports show that that is not the case.

 586. This

586. This report of the valuer, which has been handed to me, ends in this way: "Excluding buildings, and supposing tenants to pay the county cess, and half the poor rate, we estimate the fair letting value at 16 *l.*, so as to leave a good substantial interest to the tenant." What does that mean?

We argued in that case; at least Mr. Holmes for his Grace argued in cases similar to that; that that showed that the figure put down by the Court valuer was the figure preserving a tenant-right interest to the tenant, and that in consequence of that, no reduction in reference to improvements ought to be made from that figure; and the answer given from the bench was, that is not the case; the Court valuer's figure is a return of the value of the lands as they stand, wholly irrespective of the tenant-right altogether. Then, when in that very case reports of a similar kind were quoted before them, there was no decision given about it, and no withdrawing of the statement made from the bench.

587. Viscount *Hutchinson.*] No dealing with the point in any way, you mean?

None whatever.

588. *Chairman.*] What was done in this case where they estimated the fair letting value at 16 *l.*; what did the Commissioners do?

Unless I knew the case I could not say. I have a copy of one of the reports here, of which I can send your Lordship in a copy afterwards. It is a County Down case.

589. Are you able to get the answer with regard to this case?

It may be in the Blue Books, but I have not got them with me.

590. I see in this case, what connects itself with the evidence which you have given, that there is a heading: "Other improvements visible," and then they say "the tenant alleges that he reclaimed part of the field at Matthews' Bridge, also the detached small field;" therefore the valuer speaks as if he had his information from the allegation of the tenant. In the printed form of their reports, one of the headings on the second page, I think, is "Other improvements visible;" then the next printed heading is, "Other improvements alleged"; that is on the printed form which they get to fill up?

In the particular one before me it is "Other improvements visible, fences, though none recent." "Other improvements alleged, some drains here and there." Then the last paragraph of the Report is, "If any draining has been recently done, I think this will be the full value, 41 *l.* 10 *s.*"

591. How did the Court of Appeal know whether the allegations were true, or not?

They have no means of knowing unless they actually re-hear the case, which in nine cases out of 10 is not done for the reason I mentioned, that no advocate would run the risk perhaps of occupying the time of the Court for three or four hours to have the decision pronounced in the evening which they had intimated their intention of pronouncing in the morning.

592. Then do I take it that your view is, that when the Commissioners announce what the figure returned by their valuer is, that they put it to counsel whether he can contend against it?

Certainly, and that is a pretty clear intimation of their opinion, and we look upon it in that way.

593. Counsel treat that as an intimation that they cannot contend against it?

Certainly. Down at Enniskillen the very last sitting there were some 40 or 50 cases gone through in about 10 minutes by that process.

594. Forty or 50 cases of re hearing, as it is called?

Nominal re-hearing.

595. Gone through in about 10 minutes in consequence of intimations of that kind?

Yes; and at the previous sitting in Armagh Mr. Holmes was brought down specially for appeals in Lord Gosford's cases, and they were all over, in consequence of an intimation of the same kind, in less than five minutes.

596. How

596. How many cases?

There were some 37. The list was handed down, and he was asked could he hope to contend for an alteration of the judicial rents in the face of those figures; and unless there is really some point, as I mentioned before, as to whether the landlord claims the buildings, and a rent for the buildings, or some point of allowances having been made by the landlord for which he ought to get credit, it is felt that it is no use going on with the case.

597. Marquess of *Salisbury*.] Practically, on taking their seat, the Judges of Appeal announce that they have made up their minds, and it is no use going on, you say?

Quite so. It is perfectly admitted by one solicitor in the north of Ireland, who has had more to do for tenants in these courts than any six throughout the whole of Ireland, that the hearing of appeals is the most solemn judicial farce ever instituted.

598. Lord *Brabourne*.] Do you complain of undue haste on the part of the Sub-Commissioners?

On the first hearings it was a new tribunal, and they were all new to the work, but now they do not seem at all satisfied unless they run through 20 or 25 cases in a day at a Commission?

599. *Chairman*.] I suppose this adds very much to the rapidity of the business transacted?

Yes, but the propriety of the course adopted is another question. Several of the tenants' cases are heard in detail. Then at the end of the day, in the course of which 18 or 20 cases of tenants have been heard, and the evidence recorded by the Sub-Commissioners, the counsel for the landlord is called upon. This occurred in some cases at Cookstown in which I myself was engaged this month. Some of the tenants alleged that there had been increases of rent from time to time; we had the estate books in Court to show that this evidence was incorrect. One man said, for instance, that the rent of a certain holding had been for several years 3 *l.* 10 *s.* We had the estate book in Court to show that during that very time the rent paid was 5 *l.* 2 *s.* 6 *d.* When we came to the latter end of the day to give evidence for the landlord, and sought to put in this book, we were met with the technical objection that the book was not in the handwriting of the witness in the box. I think it was then that the Commissioners told me that they looked upon that as immaterial to the case, and that I need not bother my head about going into it. But they had religiously taken down everything connected with the alleged increases from the tenants, and every one of those alleged increases will appear in the official returns they will send in. If you look at the last three or four sets of returns giving the rent fixed, you will find a column in the return showing alterations in rents.

600. Lord *Brabourne*.] Will that column give the original rent as stated by the tenant?

As stated by the tenant, and nothing whatever of the evidence of the landlord.

601. Then it will lead to an entirely erroneous conclusion as to the amount deducted?

That column in the returns is an entire delusion, for this reason, whether an alteration of rent has been the result of an actual increase upon the rental of the holding, or the result of more land added to the holding, it appears in the return as an absolute increase of rent.

602. Marquess of *Abercorn*.] With regard to the Court valuers' reports, have you never been able to see the valuations of the valuators of the Court of Appeal after the decisions are given?

Yes; we see those always in the Appeal Court before the decisions are given.

603. I thought you said they would not show them?

In the Sub-Commissioners' Court, during the three months they had a valuer attached to that tribunal, that was so, but in the Appeal Court they give them to you in the first instance.

 604. Have

604. Have you found that the valuation of the Court valuators is often very much above the landlord's rent?
In a great many instances.

605. Notwithstanding that, has the rent been reduced very much below the landlord's valuation?
Certainly, in the case of judicial rents the Sub-Commissioners decisions being confirmed. One particular case is before my mind at present where the rent was 46 *l.*, the Sub-Commissioners made the rent 36 *l.*, the Court valuers' figure when produced was found to be 55 *l.* 10 *s.*, and the report contained the statement that at this rent a substantial interest would be left to the tenant, but the Court of Appeal confirmed the judicial rent of 36 *l.*, as against 55 *l.* 10 *s.*

606. Lord *Brabourne.*] Then the Court valuers' report has not gone for anything, in your opinion?
When it confirms the judicial rent, or comes at all near it, it is absolutely adopted; that is my honest conviction. When taking its figures and all its statements into account would result in benefiting the landlord, I verily believe it has been thrown overboard, that is my firm conviction.

607. Lord *Tyrone.*] In those cases you mentioned particularly, where the list of the valuers' decisions was handed down, they generally have gone very near the Sub-Commissioners' decisions, have they not?
They have been some few pounds over them; but then, as the Court entertains the view that that is a figure from which they are to deduct for improvements that are established, you see we have a very little margin to go upon.

608. In any case were the valuation was a good deal over the amount they would not ask the question?
They would ask the question of the entire list on one estate *in globo*. Then it is open to you to say that you will fight them all if you wish. That has been done once or twice. In Belfast we did that in a set of cases, and they occupied from about half-past ten to half-past four, and I had hardly sat down after speaking about the reports and everything with those cases, when the announcement was made that they confirmed the judicial rents, and called the next cases.

609. *Chairman.*] What is the effect of the mode in which the Commissioners have dealt with the appeals or re-hearing, upon the tendency to appeals or the desire to appeal?
It has stopped appeals to a very great extent, but it is not a legitimate mode of stopping appeals, as we regard it.

610. In practice it has been found an efficacious mode of stopping appeals, you think?
Certainly, because the landlord would rather put up with the loss than run the risk, after waiting and bringing counsel down to argue the appeals, of having the old judicial rents confirmed, with costs, against him.

611. And what is the course adopted with reference to costs?
Unless the landlord on the appeal succeeds in bringing the judical rent back to the old rent he is bound to pay the costs of the appeal. That is the rule they have adopted.

612. And I suppose these costs are considerable?
They are, because they cover witnesses' expenses as well as the statutable fee for the hearing of the case. We had a set of cases of Mrs. Featherstonehaugh's in the northern part of County Tyrone, which were heard on appeal at Lifford. There were, I think, 22 cases. All the judicial rents were confirmed on appeal, and when the solicitor for the tenants furnished his bill of costs, it amounted to 86 *l.* in those cases.

613. What was the name of the landlord?
Mrs. Featherstonehaugh.

614. **Lord**

614. Lord *Brabourne.*] Was the bill of costs taxed?

It was taxed. It was 86 *l.* when furnished, but it was taxed down to 67 *l.*; that showed an average 3 *l.* a case, for the purpose of having these cases heard.

615. Marquess of *Abercorn.*] Would that include the costs of the Court?

That was the cost of the whole.

616. The whole expense?

Yes.

617. *Chairman.*] Do you find in practice that when your Sub-Commissions decide differently on apparently similar holdings, the appeals from the one are as much affirmed as appeals from the other?

That has been certainly the case, and that is illustrated by the cases I mentioned in the earlier part of the day, Mr. Cope's cases, where one set of Sub Commissioners made a reduction of about 11 per cent. Those cases were heard on appeal from the tenants at Belfast, and the Court of Appeal there, with our consent, confirmed the judicial rents, intimating that they thought that if the landlord had applied for the restoration of the old rent he would have been entitled to get it, as the estate was very fairly rented. It appeared from that that he would have got it if we had asked for it, but both the landlord himself and his agent said they had agreed to give the tenants the benefit of the reduction they had got, and, therefore, they would not go back upon it; consequently those reductions were confirmed. Then the next Sub-Commission reduced rents 26 or 27 per cent. of farms upon the same estate and immediately adjoining the other holdings, as shown on this map. The reductions averaged 23 per cent., and two of them went to 27 per cent. Those cases were appealed. Mr. Monroe and myself quoted before the Appeal Court what had been already done in the other cases, and the principle that the Appeal Court itself had laid down, and we asked them to be consistent with themselves, and to make the last set of reductions identical with what they had confirmed in the first. They not only refused to do that, but affirmed the reduction made by the second set of Commissioners of 23 per cent.

618. Were any different circumstances shown?

None whatever, the holdings were held upon similar terms; they were upon the same townlands, and they were dealt with in the same way, so far as tenant-right and everything else was concerned. One set of the tenants now have their land at Griffith's valuation of the land, whilst the other set have theirs at a percentage much below that; and that has created an enormous amount of dissatisfaction amongst the tenants whose cases were heard first. They say, if we had waited, and taken our chance of what we could get from the second body of Commissioners, we would have got more than we did.

619. Are you able to give any idea of the percentage of the number of cases in which the Court of Appeal has varied the decisions of the Sub-Commissioners?

I do not think, through the north of Ireland, in all the sittings they have held, that there is more than 5 per cent. of the cases in which an alteration has been made.

620. Viscount *Hutchinson.*] Up and down, or both ways?

Up and down both. If you take the return of the decisions in respect to any particular estate, in which they have, say, anything like 15 or 20 cases, you will find that probably the rents in two or three will be increased, and in seven or eight they will be reduced, and the total result will be to leave the landlord in a worse position than the Sub-Commissioners left him.

621. *Chairman.*] Then, according to your view, the result may be taken, I suppose, to be thus: that those Sub-Commissioners, varying in different parts of the country in their views and practice, are really becoming the arbiters to fix the rental of Ireland?

Certainly, that is my firm conviction. Although there is a power of appeal from them, it is practically a misuse of the phrase altogether to term it an appeal.

622. So far from there being one central head to steady and render uniform the decisions, the primary tribunals are left entirely free to adopt their own valuations throughout the country as they please?
That is the practical result of what is being done.

623. Marquess of *Salisbury.*] Has any aggravation of this evil taken place since the Commissions were increased from three to four members; I mean as to the mode of conducting the appeals?
Oh no; the same course is adopted. It is really Mr. Justice O'Hagan and Mr. Litton who take most part in conducting the appeals. Lord Monk, of course, is new to the work; he sat for the first time in the Appeal Court at Lifford, and made very few observations. Mr. Vernon very often intervenes, and says, "have you seen the reports."

624. There is an extensive power of appeal over the heads of the Chief Commissioners in cases where one Commissioner disagrees, is there not?
You can only appeal beyond them by leave; and in several cases in which leave has been applied for to appeal on points that we considered important, they declined to give the appeal; they would not allow an appeal at all upon a question of figures or a question of value. If there is a law point raised of course they have the power to send it forward, as they did in Adams *v.* Dunseath; but they have not extended the right of appeal to the High Court Appeal in the way in which it was expected to be extended.

625. Viscount *Hutchinson.*] There is a great disinclination to give leave to appeal, as I understand you?
They have a great disinclination to give that leave; it lies in their discretion, and they must be satisfied that the application is not frivolous or vexatious; and then they will say, "There is nothing for the Appeal Court to settle in this case; the facts and the history of it which we have before us settle it." When a point of law arises, such as that with reference to improvements under the Act of 1870, they decided the case on some other point, and got rid of it in that way.

626. Lord *Tyrone.*] Have the tenants given up appealing, as well as the landlords?
Well, they have no cause to appeal now; really that is the history of their giving it up. The reductions that have been made for them have run up to 20 and 25 per cent. In the great majority of instances the reductions amount to 25 per cent. upon the rent; that and the benefit obtained under the operations of the Arrears Act has put them in a happy condition, so far as regards not desiring to appeal. The result is that there are very few tenants' appeals.

627. Have the reductions of late been larger than they were at first in Ulster?
They are larger, certainly, than they were at first, but the last two or three sittings, I think, they have maintained a tolerable average.

628. They are a good deal larger than they were during the first six months of the working of the Act, are they not?
Certainly.

629. Then you would at once put on one side the argument that has been used, that the most rack-rented cases came into Court first?
I do not believe that at all. One of the most rack-rented properties, perhaps, in the whole North of Ireland was the Parnell estate, in the County Armagh. About the first notices issued were served on that estate, but by some coincidence they were never listed for hearing until the very last sitting. Some of the holdings border on Mr. Cope's property, but the result of the decisions in those cases is that the rents upon Mr. Cope's property are left under Griffith's valuation, while upon Mr. Parnell's property, the rents upon which have been largely increased in the last few years, they are left above Griffith's valuation.

630. Lord *Brabourne.*] What Parnell is that?
Mr. Charles Parnell's brother.

631. Lord

631. Lord *Tyrone.*] Have you come across the same class of thing in other places in the North, that is to say, that where rents were high they have been kept relatively higher than those which were low before?
There is no doubt about that.

632. Therefore, the landlords who have been the most considerate to their tenants have suffered the most, in your opinion?
Undoubtedly; they have come the worst off.

633. Do you know many instances of landlords who will be ruined by the effect of this Act?
There is a large number of encumbrances affecting the property of many of them, and in a great many cases the small margin that was left to them for living upon themselves is practically cut away by the operations of the Sub-Commission Courts.

634. There are those cases you have before the Committee already; the Ogilvie's cases in County Tyrone; is that one of the instances to which you refer?
Yes. That is a large property of 6,000 *l.* a year, which was eaten into by encumbrances to such an extent that there was only about 150 *l.* left as margin for the owner, and although one-half the cases on that estate have not yet been heard, the result of what has been done is to cut away the entire of that 150 *l.* margin, and the owner is living on the charity of Mr. Greer and some of the encumbrancers, and that is all that he has to enable him to exist.

635. Lord *Brabourne.*] There will not be enough left to pay the encumbrancers, you believe; is that so?
There will not be enough to pay the encumbrancers.

636. Lord *Tyrone.*] And that while the tenants have got an increased value?
They have got very largely increased interest in their holdings. I do not know whether your Lordships have had under your notice at all the cases of middlemen upon properties; there is one particularly hard case that came within my own cognisance in the County of Armagh, where a lady held, I think it was something like 80 acres of ground, under a fee-farm grant, subject to a rent of 18 *s.* an acre. She had, say, five different tenants; three of them paid her 22 *s.* an acre, the other two paid 25 *s.* an acre. The whole five brought her into Court under this Act, and got a reduction, which leaves her in this position, that she is getting 16 *s.* an acre from her sub-tenants, and is paying her head landlord 18 *s.* an acre.

637. Marquess of *Salisbury.*] We had it in evidence from the chairman of one of the Sub-Commissions, Mr. Reeves, that he considered it contrary to the Act so to neglect the interest of the landlord as to allow the middleman, who was in the place of the landlord, to pay more for his land than he actually received; that view has not been held by other Sub-Commissioners, you think?
There is nothing as to that on the face of the Act.

638. Viscount *Hutchinson.*] There was a case, I recollect, where the rent that the middleman received was reduced below that which he had to pay, but that was subsequently reversed upon appeal?
It was, but the margin there was very small.

639. Was there not one chief of a Sub-Commission who reduced the rent receivable by the middleman to such an extent that he was just able to pay his county cess, and his proportion of the poor rate, after he had paid the head landlord, and that that said Sub-Commissioner described that as being a fair margin to leave to the middleman?
I think that was Mr. Reeves; there was a case of that kind I know, but with reference to the middleman, there is another matter I may take the liberty of mentioning to the Committee. A middleman who holds on a short tenure, and has his ground sub-let to tenants, may be brought into Court and a rent fixed for the sub-tenants, which so long as the middleman's interest exists, may of course only affect the middleman; but the moment the middleman's

interest drops, then under the Act of Parliament it affects the head landlord, who has had no notice whatever of the application, or anything intended to be done, and the rent has been fixed for the statutory term as against him behind his back. There is nothing whatever in the rules to provide for a case of that kind.

640. Lord *Tyrone.*] Does not the head landlord get information under those circumstances?

None whatever.

641. But the mortgagees do, do they not?

Not unless they apply.

642. Lord *Brabourne.*] If the landlord had information of the application, he would not have the power to appear in court, would he?

No. That is to say the head landlord would not. I may have misunderstood what your Lordship means. What I gather from the question is this. If a tenant who holds under a middleman, serves a notice upon the middleman to fix a fair rent, even supposing the middleman's landlord gets notice of that application, and comes into Court, he would not be heard in reference to it, because he is not legally before the Court at all.

643. Viscount *Hutchinson.*] Let me ask you whether your experience before other Sub-Commissions is the same as that which I am led to understand it is before one Sub-Commission at least. We are told the proceeding is this: "I always get the title deeds of the middleman, to see exactly how he holds, and what rent he pays. If he has got practically a fee-simple title, with what is in the nature of a ground rent, I do not give any notice to the head landlord, but if there is any likelihood of the head landlord being affected, I always let the case stand over for him to be served with notice, and I take care that in no case is the tenant's rent ever fixed below what the middleman has to pay"?

I have never known that done. I may state what occurred in a case in which I was myself concerned for the mortgagees; that was upon the Ogilvie estate, where the mortgagees practically were the parties interested. The notices were served upon the landlord who had no pecuniary interest really. The mortgagees applied to the Court above for an order that they should be served with notice of the proceedings, and we had considerable difficulty before we got that order, and when we came down before the Sub-Commission they wanted to limit our right to interfere there to the pure right of watching the proceedings, and doing nothing more, and they did actually limit it to that.

644. Would not that be a point of law upon which you could appeal?

The question of a home farm arose in some of the cases, and upon that ground we did appeal, but that was because the arrangement was made against the interest of the mortgagee, and without notice, but that is a special technical point.

645. Under the existing state of things, it is perfectly possible, is it not, for a collusive arrangement to take place between sub-tenants, and a middleman holding for a short period, to the detriment of the head landlord?

Certainly, what is done under the Act of Parliament as regards the middleman will operate upon the head landlord when he comes in.

646. Lord *Tyrone.*] Have you formed any idea upon the question of the purchase clauses, as to whether they could be improved in any way, in order to be made workable?

Unless the entire amount of the purchase-money is lent I do not think they will have any operation whatever.

647. Do you think if that was done that there would be a large amount of property changing hands in the north?

I do not think there would to an appreciable extent. I think the tenants have begun to realise in their own minds at present that to be a proprietor would

would be to occupy a worse position than that of a tenant; there are charges connected with proprietorships that they do not know anything about at present.

648. There is no anxiety, that you are aware of, to become proprietors?
None whatever. I believe a tenant under the Act has an infinitely larger interest in his holding as a pure and simple tenant than he would have if he were the proprietor of it, because he may get more for his tenant-right than the proprietor could get for the fee-simple of it.

649. Lord *Brabourne.*] In your opinion, he is, practically, owner without the charges incident upon ownership?
Quite so.

650. Lord *Tyrone.*] But would not a tenant rather prefer to pay money for the fee-simple, than to pay a large sum for the tenant right?
Unless the payment he has to make is less than what he has to pay for rent now, I do not think that you will ever induce tenants in large numbers to become proprietors.

651. Suppose by any means the amount could be made less than he has to pay now for a certain number of years, then do you think that the tenants would be prepared to purchase?
I do, with this contingency though; that agitation then would be pointed against the State by-and-bye, on the ground, first, that it had recognised the principle that the land belonged to the tenants; and secondly, that it was unfair to charge them rent for what was their own. It would be only postponing agitation.

652. Marquess of *Salisbury.*] Do you think that the State would get the interest on its money?
I do not.

653. Lord *Tyrone.*] Can you suggest any solution of the difficulty?
I really do not know of any, unless you get rid of agitation altogether in Ireland, which I am afraid is a state of things that is unattainable.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to Friday the 4th May, at Twelve o'clock.

Die Veneris, 4° *Maii*, 1883.

LORDS PRESENT:

Marquess of SALISBURY.
Marquess of ABERCORN.
Earl of PEMBROKE AND MONTGOMERY.
Earl STANHOPE.
Earl CAIRNS.
Viscount HUTCHINSON.
Lord TYRONE.
Lord KENRY.
Lord BRABOURNE.

THE EARL CAIRNS, IN THE CHAIR.

MR. ROMNEY FOLEY, Q.C., is called in; and Examined, as follows:

654. *Chairman.*] You are one of Her Majesty's Counsel in Ireland, I think?
I am.

655. And you were appointed a legal Sub-Commissioner in December 1881?
On the 6th Decemher 1881.

656. For what term is your office?
I understood that it was to he annual, and the first year the warrant did comprise a year's term. I had no communication with anyone, but I found my next appointment endured only from January to April. This was without any communication with me. Subsequently it was enlarged, as I understand, to Decemher of this year. Of course I can be dismissed then.

657. We understand that you are yourself a landowner in Ireland?
Yes, I have a small property in the County of Kilkenny, near Thomastown.

658. Perhaps hefore we go into other matters, you can give us some information as regards the general position of land in Ireland now, as to saleability; is there much or any selling of land in Ireland?
I can only give that information second-hand, hut I think the sources are all reliahle, that there are no transactions of the kind practically. And passing through the office I just asked an official; it was no confidential communication; he told me in the lobhy that practically they are not doing anything in that department.

659. Supposing that encumbrancers in Ireland were to call in their charges upon property now, what would happen?
I myself can answer that question. I inherited an encumbered property, and the only thing is for the parties to take such rent as the tenants have heen contented to pay, accounting for the surplus. The Sub-Commission sat in that county, and reduced my rental hy 18¼ per cent., hut as yet the tenants have not shown a desire to pay that. I have had communication with them, and as yet they have not paid.

660. Supposing that in any property (we will not take particular properties), encumhered, the encumbrancer wished to realise his money, would there he practically any way of doing it now?
I think

I think not. An adverse proceeding by a receiver is the only mode by which to get at the money.

661. But the receiver could not do more than receive the rent, could he? No.

662. So that while on the one hand the landowner could not pay the encumbrancer, on the other hand it would be the encumbrancer's interest, I suppose, not to proceed to extremities?
I think that is just the true position. They are watching their opportunity, and waiting in the hope that Ireland will become more healthy and better.

663. We see from time to time in the public prints mention of farms being sold, and sold at what appears to us high prices; that is the tenants' interest in the farms; is there much selling of that kind in Ireland?
You allude to the Ulster tenant-right, perhaps.

664. That is another way of describing it. We generally see stated in the papers that a farm is sold; of course we know that means that the tenant-right in the farm is sold?
We do find, although the times are bad, a good many instances. In Tyrone, where I have been for three circuits, we do find very considerable sums given for the interest of the tenant, but they are only instances. There is no general selling even there.

665. But in those cases would you say that the tenants' interest fetched as much or more than it did formerly?
I am a Southern, and have not had enough experience to speak of that. I think I could not do so with sufficient precision. My impression is that the prices paid are very high, and it often staggers me when the rents come to be reduced or sought to be reduced.

666. What counties have you had experience of as legal Sub-Commissioner?
First in Westmeath, then in Kildare, Meath, and broken portions of the adjoining King's County; then, after three months' experience of those, I was transferred to Armagh. The circuits then became four instead of three months, and I had four months' experience in the Armagh district, and then I have had three circuits in Tyrone.

667. Is there any principle on which these transfers are made from time to time; are they made after any certain period, or are they made at the request of the Sub-Commissioners themselves, or how are they made?
The Sub-Commissioners are never consulted to my knowledge. I have never been consulted either as to my own transfer, or as to the transfer of anybody else. Never. I have had no voice in it whatever.

668. Are you aware of any principle on which the transfers are made?
No, I have thought sometimes that we have been transferred because we were unpopular. I have thought that, but recollect I have no materials upon which to ground it. I was transferred from a midland county where I myself became somewhat unpopular.

669. Lord *Brabourne.*] Unpopular, with whom?
Well, in that instance my collision was with a priest who wanted to exercise what I thought more than legitimate influence. That was the occasion to which I refer, but I have had nothing of the kind in other districts.

670. Viscount *Hutchinson.*] You do not mean to say authority over the Court, do you?
Yes, attacking the Court, saying we did our business inefficiently; and I replied to him, and it was the subject of discussion in Parliament. Mr. Gray made it a subject of discussion. I defended the Commission on what I thought very satisfactory grounds, and the attack was unfounded, in fact and truth.

671. *Chairman.*] I suppose the press in Ireland is tolerably free in its comments on the action of the Commission Courts?

On

On that occasion the parties represented the Commissioners as caring more for their luncheon than for business, and cutting away from the Court after lunch. That aggravated us very much, as it was untrue; and they spoke of want of care, and what they called my inability, because I did not decide intricate points of law offhand, but took time for reflection.

672. On the questions that come before you as to value I suppose you have very conflicting evidence between the two sides?
Extremely conflicting.

673. Generally speaking do the tenants employ professional valuators?
No, generally speaking, their evidence is really of little moment. They are generally farmers who are, great numbers of them, in the lists before me, or lists expectant before me, and it is not often that they employ professional valuators of standing and experience.

674. I suppose the managers of estates would naturally have professional valuators, the landlords and their agents?
They have frequently a professional valuator. Those professional valuers also make reductions in the rents. They value on a reducing scale.

675. As between different Assistant Commissioners, the legal Sub-Commissioner, who is the President, and the two, what I may call the non-legal Sub-Commissioners, does the decision as to value rest with the legal or the two non-legal Commissioners? We understand that you as the legal Sub-Commissioner are responsible for the decision on points of law?
That authority, I have taken the privilege of thinking, I ought to assert exclusively, because other Sub-Commissioners do sometimes, contrary to my wishes, try and intervene in points of law, and I have assumed that right, and, without offence, have endeavoured to take it upon myself exclusively.

676. With regard to value, do the non-legal Sub-Commissioners dispose of that?
I am very infirm in that respect, because I have not a knowledge of that subject; that is the agricultural department, and I so explained to Mr. Forster, and he told me that that was not expected from me.

677. You were told that by Mr. Forster?
Substantially, he made the appointments in Ireland when he was Chief Secretary, and I thought it due to him to let him know that as I had been always at the Bar I had no practical experience of land, and that I would not be instructed by inspecting it, and he said that department was not for me. I have hardly ever gone out to inspect, but I always preserve in my book the evidence, and if I see a very wide gap between the comparative estimates I ask these gentlemen, are they quite safe in adopting lines that appear to me sometimes very strong.

678. You point out as a matter of law to them that the evidence does not warrant the conclusion to be drawn from it?
I hardly go quite so far as that, but I ask them why and wherefore it is, and then their answer is, that the evidence which they have heard, aided by their inspection, induces them to come to that conclusion; that is the answer.

679. It has been mentioned to us that there have been cases in which for some reason or another the landlord had not given evidence of value while the tenants had, and that the Commission had no evidence from the landlord, but only from the tenant. Under those circumstances what would be the course of the Commission. Would it be to form an opinion for themselves, or to accept the tenant's evidence?
The very thing your Lordship mentions occurred on my Commission in Meath. I was sitting with a lay colleague, who had also been a member of the bar, and is now a legal Sub-Commissioner, Mr. Doyle is his name. He was one of the Assistant Commissioners. Since then he has been made a legal Sub-Commissioner. The evidence was all as you put it, for the tenant, and he and I, looking at the evidence offered, and knowing what a legal tribunal would do,

thought the evidence on the one side was to be accepted in the absence of evidence on the other. My lay colleagne, a man of great experience, Mr. Howlin is his name, took a different view, and said he could not concur with us. The case went into the Head Court, and I was very anxious to be either confirmed or over-ruled, so that I would know what lines to go upon in future; hut the case went off upon a tangent, and that point then in my humble judgment remained as I ruled, and as I should rule again until it is reversed or corrected.

680. There has been no authoritative ruling upon tbat point laid down?
No, there has not to my knowledge.

681. In the case you mentioned, was the judicial rent which you had determined confirmed?
Tbe case went to the Court above, and I really could not tell you whether it was confirmed; I dare not trust my memory.

682. Viscount *Hutchinson.*] Have you any idea what the tangent was that tbe case went off upon in the Appeal Court?
I have a cloudy recollection of it.

683. At all events that point was argued before the Appeal Court; was your decision the ground of the appeal?
My decision, concurred in by one and dissented from by the other, was the ground of the appeal, and I was most anxious to he instructed.

684. And according to your recollection, there has been no opinion expressed by the Court of Appeal as to the value of your decision?
No; if it is not against rule, I could find that out accurately; I remember both the counsel in the case, and have my own note at home, and if I may supplement it, I will be able to do that for the Committee.

685. Lord *Brabourne.*] Was it a legal point?
I think the Head Court went into the case *de novo* upon some point tbat I cannot recollect.

686. I mean to say, was it a legal point on which the lay Commissioner differed from you?
No; Mr. Howlin acted on his own good sense; he is an excellent man, and he said he could not reconcile it to his conscience to form his judgment upon an uninspected holding, and that he thought we were too technical in our views, in saying as the courts say, if there is only evidence on one side, you must yield to it.

687. Viscount *Hutchinson.*] This is a case in which your lay colleagues did not inspect tbe farm?
No; heing two against one it was not inspected; Mr. Howlin recorded his dissent, and it is reported.

688. I suppose we shall find it in the reports of the cases?
It is in a journal called "Tbe Irish Law Times." I do not think it is a book you would find here. Tbe evidence, perhaps, will not be provided without a little time being lost, and, if you will permit me, I will find out tbe whole of the particulars.

689. *Chairman.*] I do not know that it matters very much. Of course, as you know, in a litigation hetween man and man in a court of law, if the one side did not give evidence as you suggest very naturally, the Court would take tbe evidence of the otber side and say, "If you will not give evidence we must take your opponent's evidence;" but the question, of course, would be whether in a tribunal of this particular kind the object was not so much to conduct controversy between litigants as to ascertain what was really the value of land?
A great number of the bar, my own colleagues at the bar, thought I was wrong; they told me so in the library. I asked their opinion when I went up, wishing to be right on another occasion, and they said they thougbt your Lordship's view was the correct view, and that that distinguished the case from the ordinary cases.
But

But in this case the landlord had rested his case upon a preliminary objection. I said to his counsel, "Come in and give us your evidence, and we will reserve the point of law as if it was a case before a jury;" but he combated me distinctly. "A Queen's Counsel had come from Dublin" (Mr. Law), and he said, "I will give no evidence at all for the landlord, I am so strong upon the legal point." They went to the Court upon that, and the Court said the whole case should be gone into, I think.

690. Lord *Tyrone.*] I understand you to say that that point has not yet been settled?
I am not conscious of it.

691. I mean to say, as to whether you were correct or not in your procedure?
It has not, as far as I know.

692. Have you had any other cases of the same description coming before you?
No, I never have.

693. You have never had the same sort of thing happen again?
No. Landlords' advocates very often say, we will not trouble to give evidence; we know the Commissioners are experienced, and that they will go out and see for themselves, or they have said, our valuer is a long way off, and we cannot get him, or very often the valuation has been handed in afterwards by consent. There has been a great deal of amicable matter of that kind in Tyrone in our Commission, and we have had it on both sides agreeably worked by consent of parties.

694. After having laid down that as the mode of procedure on your part, perhaps the landlords might be more particular in producing evidence; did you find that to be the case?
You see that was in Westmeath, and when I went to the north they never knew where I had been or anything about me. I do not think they would know anything about me or about that decision. That is my opinion.

695. *Chairman.*] You were transferred, were you not, to the county Armagh, in 1882?
Yes, in 1882.

696. Lord *Brabourne.*] Do you remember in what month?
April, as well as I can remember.

697. *Chairman.*] Who were your non-legal Sub-Commissioners then?
I had two colleagues, one named Mr. Davidson, the other, Mr. Meek.

698. Did you find there as well as elsewhere, that a good deal of the inquiry turned upon the question of improvements made by the tenants?
A great deal of it.

699. Did you find yourself able, in giving judgment in cases, to specify the improvements, the value of which had entered into your judgment?
Except generally, I was not able. There is a rule of the Court, as your Lordship is probably aware, that they are returned *in globo*; there is no particularisation of the money value to be given for all or each item.

700. What I meant rather was this, not so much the mention of the particular improvements in specie, as were you able to let the parties know how much the deduction on the ground of rental for improvements was, from what otherwise would have been the full rental of the holding?
I think that was not expected; we were not to do that, I think. I think I wrote to ask whether that was to be done, and I think that was not to be done.

701. Were you applied to by the parties to do that?
Very often. On the landlords' side I used to be very much pressed in Armagh, and the tenants then wanted me when I came to Tyrone to give them all the details, the why and wherefore I formed judgments, and I resisted that

on the well-known principle that I was not accountable to them. They wanted me to specify what I allowed for tenant-right, for improvements and things of that kind, and I said I would not do that for anybody.

702. That connects itself with another matter with regard to Ulster. In dealing with holdings, subject to the tenant-right of Ulster, did you pursue the same course there as in regard to other cases in finding out what the improvements were, and making your own estimate of the value of them, or did you arrive at the value of the tenant-right in some other way?

I only take, pursuant to the lines of the Act, into consideration the improvements, and I do not allow my mind to dwell upon the question of tenant-right which I find it impossible, as I believe everybody else has, to define.

703. But with regard to your colleagues, the non-legal Sub-Commissioners, who decide the question of value, what was the course they pursued?

The answer they always gave me upon that point was that they never lost sight of the fact of its being a tenant-right estate or a tenant-right holding, but beyond that I could get no more precise information.

704. I am not sure that I attach any particular meaning to that, that they never lost sight of the fact; did you attach any meaning to that?

No. It was that very large clause of the Act of Parliament which says that all the circumstances of the holding, the interest of landlord and tenant respectively, are to be taken into consideration. It seems to me to be almost so unbounded that I have felt myself very much bothered by the generality of that provision.

705. Marquess of *Salisbury.*] When you say you could get no further information, do you mean by that, that they preserve it as mystery to you, or that they were not conscious themselves of any answer they could give to you?

I could not tell. I got no further than that.

706. It is simply that you did not succeed in eliciting an answer?

No, they never said that they allowed anything in money value for it, but that they never lost sight of the fact that it was or was not in a tenant-right district.

707. Did you at all call their attention to the circumstance that that was a very ambiguous, obscure expression?

I cannot enlighten myself, and I do not expect more from them than I do from myself in that point of view, after the long years' experience I have had. I have often tried to get instruction from the landlords' valuers who come up, and I can get none from them. It seems to be like the *scintilla juris* in Sugden's book, something that seemed to be not tangible, and I could not get the landlords' valuers to tell me how they dealt with it. They gave me the same answer. We never forget that we are in a tenant-right district.

708. It did not translate itself into any equivalent in your mind?

I was under that impression. I may be wrong, but I must give you what my own sincere impressions are, be they good or bad, satisfactory or not.

709. Viscount *Hutchinson.*] When you say you tried to get information from the landlord's valuer, what sort of information do you mean?

I used to say to him, "Do you attribute or appropriate any money value to this holding as being in a tenant's right district."

710. Any value for the tenant's interest, do you mean?

Yes, because my next question would be, "How much do you appropriate to tenant-right interest, and how much do you appropriate to improvement."

711. You make a distinction between tenant-right interest and improvement?

I wanted to get something tangible, to know what I was doing, what was right in my own mind but I never could get anything.

712. *Chairman.*] Were you able to form any opinion about a case such as I have put. Supposing there were a holding on which there was absolutely no improvement

improvement made by the tenant, but subject to the custom of Ulster, on what basis in a case of that kind, would the non-legal Sub-Commissioners value?

They would not reduce the rent one farthing in that case beyond what their inspection would warrant.

713. Would not reduce from what?

The old rent would not be reduced by reason of any species of value of the tenant right.

714. Do you think not?

No; they deceive me if they do so. They take the circumstances of the country, the fall of property and the fall in the value of product, if any, in estimating the rent of the land.

715. And, as you say, they assured you that they always kept in their eye the fact that it was a tenant-right farm?

Yes.

716. That is what I wanted to know. In the case that I put, where there were no improvements, but where their eye would be allowed to dwell without any disturbance upon the fact that it was a tenant-right property, would the result be pretty much the same as if there had been improvements?

No; in the case supposed of improvements there would be a plump sum, on which five per cent. would be deducted from the rent in respect of the moneys representing the improvements; that would be the first process.

717. That is where there were improvements?

That is where there were improvements, and that process would not be adopted, of course, in the other where there were none.

718. When the full power of the process of keeping in their eye the fact as to the tenant right came to be applied, might not the result be just the same, and that the rent to be fixed might be just the same rent that would, in the other case, have been arrived at by the process you mentioned?

That would be cheating. I would not think they were acting fairly if that were so. If you think they would do it I cannot tell whether they would or would not; I suppose they would not; I know they would not.

719. Viscount *Hutchinson.*] I understood from the way you have answered Lord Cairns now, that you do not personally review with any very great care the questions of fact that are decided by your lay colleagues; in fact, you are speaking at this moment as if you left them very much to decide, and attended yourself to questions of law?

I would not like you to think that; in my book I put down every item. If you called upon me to-morrow I could give you all the detail, but as to the estimate of the value of the land, that being a thing of which I am without experience, I am not able to give them any assistance on that matter.

720. In fact, you have to take their word for it?

I am obliged to do so.

721. Lord *Brabourne.*] Suppose these two lay Commissioners differ as to the value?

Then I am very useful, and have been very useful. In a recent case in the north, where there was a conflict of opinion, and I found that the tenant was a man who had in a great measure abused his trust (because he was in a confidential position, he being agent when he became tenant), I was able to influence my colleagues greatly, and visit him with the consequences of what the equitable views of such a position would be. I was of great use there, but if you took me into a field and then said, that that field, with holes dug in various places, here and there and everywhere, subsoil and the rest, made the thing worth so much, I could not pretend to give an opinion upon that; that would be asking me about a thing which I do not know.

722. Does it not happen in a great many cases that you have valuers on each side differing in their estimate of the value of a farm; in such a case

would not you consider yourself, you being skilled in the law, as competent to judge of the reasons they gave; and to judge fairly as a man who had some technical knowledge?

Suppose I was in the position of a county court judge, I would decide strictly upon the evidence that came before me in court. I entirely take your Lordship's view, but the difficulty of this tribunal is that you are not to go by evidence alone, but by evidence aided or corrected by inspection; and as I am not a master of the knowledge of land, that draws my teeth, unless they differ; then when they come to differ I can use a casting voice.

723. If they agree you would never interfere?

If they agree I am unable to interfere on the question of value, but if there is a great body of evidence concurring on one side, and no evidence, or little evidence, on the other, I can remonstrate. I get my colleagues to go over their books and study with them, and study carefully, and form the best judgment I can, and then say, "Why on earth are you giving such a reduction as that; is that fair? Look at the evidence."

724. Do they listen to those remonstrances?

They do, and I dispose of my tribunal in this way: I endeavour to have on each side of it a gentleman whose proclivities I know are proclivities in favour of property, and I have one whose notions I know are in favour of tenants, and I put them together on inspection, and I work my Commission in that way; that is all I can do.

725. Suppose in a case of value the two agree, and the evidence appears to you to be in favour of a higher valuation than they would put upon the land, and you had had given in evidence the fact that the existing rent had been paid for 30 or 40 years, would you take that into account and press it against the notion for a larger reduction?

Whenever I got a case in which the whole of the thoroughly trustworthy evidence was in one direction, as I often did, in the county Armagh, I used to say, over and over again? Are you sure you are doing right in this case. I used to do that repeatedly; the reductions appeared to me, as a lawyer, to be so large, but I could not go beyond that. My own property, which I thought was as fair as could be in the county Kilkenny was reduced 18½ per cent. I thought I was a very fair landlord. The rent was settled in famine times.

726. *Chairman.*] It was reduced, you say, 18½ per cent?

Yes, 18 and a fraction it was.

727. Marquess of *Salisbury.*] You speak of the value being determined by your brother Commissioners; do you know what they mean by value, or on what principle they ascertain the value; do they mean what the the land would let for, if there was free competition, or do they mean what would enable the tenant to live and thrive?

I do not think they would answer the question by using the language "live and thrive," that is capable of such great abuse; but they certainly would never think of a competition. That is entirely excluded.

728. That is entirely excluded, in your judgment?

Yes.

729. What would be the standard or guide of value; what does the word "value" mean?

I am afraid I cannot answer you with any great precision on that point. Every valuer that comes up is asked, "What is your letting value for the farm, if the farm was in the hands of the landlord?" and his answer is, "So much."

730. Do you mean by value, its net yield?

What it would produce I mean, or what it ought to pay, in fact. First of all they say what it would produce. Then, in order to ascertain what the landlord should receive, they say, "How much the landlord would get if it was let, it being in the landlord's hands." They do not at all ignore that; but then the next question follows, "What is the letting value, if not in the bands

hands of the landlord?" and that I think is the estimate that enters into our calculations.

731. What do they deduct from that which it would yield net to the landlord, in order to find what the tenant ought to pay?
They deduct the improvements, if there be improvements.

732. Beside that, do they deduct anything?
They have regard to the great depreciation in landed property.

733. I am supposing that they have ascertained that land would yield a certain net value to the landlord if it was in his own hands. I am supposing that the improvements have been allowed for; would there be any further deduction in order to represent the value which the tenant should pay?
I think the very starting point would be a reduction in this sense; that is to say, they do not take it as if the farm was to be let by the landlord, because there is the occupation right of the tenant. That is their point of starting.

734. What do you mean by occupation right?
The case of a man who has the holding is very differently considered from the case where the occupation is vacant and the landlord has the power of giving occupancy.

735. Then you mean he has something besides out of what the land would yield?
I think so.

736. Besides what the improvements would yield?
I think there is the tenant's interest by virtue of occupation.

737. Where do you get that value, and at what rate do you appraise it?
I think you are asking me to define abstractions that are rather out of my latitude.

738. But they are abstractions which translate themselves into a very complete form when the landlord's rent is reduced. I want to know what is the measure which reduces the landlord's rent from the sum which, apart from improvements, it would yield nett to him if it were in his own hands?
The fact of the land being in the landlord's hands, and he having the means of giving the possession or occupation, is a very valuable thing; whatever be the value in money that will go to the landlord if he has it to give, but if, on the other hand, the landlord has not that thing to give, having already parted with the occupancy, then that occupancy, whatever it may be, is of value to the tenant, and the worth of it belongs to him.

739. The tenant did not buy that occupancy; he got it by the landlord's gift; at what rate do you value it to him, so that he shall have a right to deduction from his rent for the purpose of repaying himself?
I cannot give you an answer to that.

740. Is not that vital to the whole calculation on which your decision is founded?
I cannot answer that.

741. *Chairman.*] Suppose we put aside as far as possible any controversial points; I mean as to what the value of improvements may be in any particular case, or whether in a particular case any and what allowance should be credited, we will say, to the tenant in respect of his occupation; supposing we put that aside, but still in order to start at all, before you begin to make any deductions, must you not first of all find what would be the letting value of the land, if none of those deductions were to be made. Is not that the very first step in the matter?
I believe that that is their process, but I do not think they start with the theory that the landlord has the power to give the occupation.

742. I will assume that they do not, without considering whether that is right or wrong. I will assume all that in order to get rid of any question of controversy. Assume that those deductions will afterwards have to be made, still

to get at a proper result, must you not begin by finding what would be the letting value of the land if none of those deductions were to be made?

Yes, I never have a valuer on the table, that I do not make him distinguish between what the holding would be worth in the landlord's hands, and what it would be worth if it were not in the landlord's hands. I call one the gross letting value, and the other the nett, but then when I ask him to tell me his principles of valuation he cannot, and as I am not an agriculturist I am foiled.

743. You are following exactly the train of thought I wanted to suggest to you. Then in order to get at that first figure, how is it possible to do it, if there is no market as it were for land, and no competition for land. How is it possible to arrive at what would be the letting value of the land, if it was in the landlord's hand to present it to the world without any deduction or claim upon it. How can you get at the value of it, if there is no longer a competition market for it?

I cannot say how they do it, but they do unquestionably in practice. The valuers do say that if the holding was in the hands of the landlord, with occupation to be given, such and such is the value.

744. Do you think the valuators could be got to tell the secret to somebody, how they get at it?

There is a most eminent valuator, who values for his Grace the Duke of Ahercorn, Mr. Edmund Murphy. I have heard him give explanations, but I declare that I have not been able to bottom them.

745. He mystified, by explanation, you mean?

He left me uninstructed. I used to say to him, "Now, Mr. Murphy, I am very glad to get you, because I am only a learner, and want instruction."

746. Let me read you this, and ask whether you agree with it; it relates not to letting value but to selling value, "With all respect to the Legislature to put upon unfortunate Commissioners the task of estimating the value of land in places where land has not been in the habit of being set up to be sold, and where no experience can be brought to bear upon it, is about one of the most absurd tasks that was ever put upon men. It is something like one of the impossible tasks in the fairy tales, which people are set to do, but which baffles their ingenuity;" do you agree with that?

I would rather you would not pin me to that. I am in a very peculiar position.

747. Do you agree with it?

I came here without any previous knowledge of your questions.

748. I ask you whether you agree with that or not?

There seems to be a great deal in that. I want to be quite explicit with your Lordship, but you will not ask me that which might place me in a wrong position with those I am under; I wish to be quite candid.

749. I will ask you this (I may say the words I have read are reported as being those of Mr. Justice O'Hagan): supposing this to be a just view with regard to selling value, do you see any principle of difference between this case and the cases of letting value?

No, it presents the same difficulty.

750. Lord *Brabourne.*] You told us just now that competition is excluded; you mean as regards the landlord's interest; it is not excluded as regards the tenant's interest, is it?

No, I think that a tenant in occupation does gain that advantage, whether rightly or wrongly.

751. And a tenant leaving his farm subject to the landlord's right of pre-emption, which of course he can very frequently not exercise, would have as free competition as he ever had?

I think I had the presumption to decide that when I was in the midland counties, and I have not been overruled, so far as I know.

752. I am going to ask you to explain an answer you gave in the earlier part of your examination, which I am sure you will do; you said the reports you hear of the tenants' interest being sold for high prices often staggers you in the reduction of rent when asked for by them?

It does.

753. Will

753. Will you please explain that?
I have talked to most eminent men, Judge Longfield and others, and it is put in this way; if the tenants' interest will fetch so much, how do you come to say that he is over-rented.

754. Does not that seem a reasonable way of putting it?
Then I have asked equally eminent persons on the other side, and the answer seems to be this, that land is like a commodity in which there is no open market in Ireland. Land is brought to the hammer; the people have, as you may say, only one shop to deal in, and the truth is, that it has acquired on that account in the north, as I believe, a very fictitious value, and the people do give most extraordinary prices, foolishly perhaps, as it has often turned out.

755. Marquess of *Abercorn.*] As the converse of that, have you not found that on estates that are really rack-rented the tenant right is usually very low, which shows that the low rent has a very considerable effect upon the tenant right?
I know that, and I know that every reduction of rent made by us gives in a sense a second tenant right to the tenants, but I cannot combat that, because if that be the result of legislation, I can only administer it to the best of my humble ability. I gave offence in the north by saying that I must leave that to Providence, and was criticised for saying that which was misunderstood.

756. Lord *Brabourne.*] Taking your last answer, you say that a fictitious value has, in your opinion, been given to the tenant right; is not this the fact, that a fictitious value has been given to one party at the expense of another; that is to say, that the reduction of the landlords' property has raised the price and given a fictitious value to the tenants' property?
Your Lordship can answer that as well as myself.

757. There can be but one answer to it, you think?
I can give no more answer than I have given already.

758. *Chairman.*] What, according to your observation of the working of the Act in Ireland (I do not ask anything as to particular Commissioners or Sub-Commissioners), generally, is the amount of presumption that is supposed to arise from the payment of an unchanged rent for 40 or 50 years, as regards its fairness?
That view of the question first occurred to my mind when I was sent to Armagh, and I came to the conclusion that a long continued payment of the rent was really not a just criterion, and for this reason, that the rents had been fixed when there was a good trade (the linen trade in the district of Armagh), all of which has practically vanished.

759. Perhaps it would be more correct to say loom work in the houses?
Yes, that is the correct expression, loom work in the houses, and the rents were very much measured by having regard to the fact that an intended tenant had, say, three or four daughters and three or four sons all capable of earning a good deal by the loom. Rents then were assessed on that basis.

760. That is to say, he eked out any deficiency by the manufacture he carried on in his house?
He did, and he was in that way enabled to pay the rent; and I considered, whether rightly or wrongly, that that was not a fair element to be considered in reference to the letting of the holding.

761. Still, that loom work in the houses has disappeared for 30 or 40 years past, or very nearly, has it not?
Yes, and they have gone on paying the same rent ever since. My own humble opinion is that the rent is very high in the north, if I may be permitted to say so.

762. Suppose you found the payment of an unchanged rent for 40 or 50 years, accompanied with a very considerable price given on any change of the tenancy for tenant right, 10 *l.* an acre, or something of that kind, would not that raise a presumption that that rent was a fair rent?
I think not; the head of the Court has in fact laid down that we are not so

to consider it. Judge O'Hagan has so laid that down, and I am bound to follow it.

763. Judge O'Hagan has laid down that you are not to consider it?
Yes.

764. Marquess of *Salisbury.*] Has he laid that down on appeal?
Yes, he laid it down in the head Court on appeal.

765. Viscount *Hutchinson.*] Generally, I suppose?
Yes. That a long continued payment of a high rent was not any evidence or presumption upon which you could found the idea that the rent had been originally fair.

766. Lord *Brabourne.*] That is to say, that a long continued payment of rent was not to found the presumption that it was not too high?
He said that it was not, most distinctly.

767. *Chairman.*] An unchanged rent accompanied with the payment of 30 *l.* an acre for the tenant right, as we were told, was the case in the County Armagh?
That is so. I have found on frightfully rack-rented properties that the tenants have been paying, in the sense that they have been very much in arrear, for long periods. I have found, practically, on properties that I cannot doubt were immensely high rented, that long-continued payment. In the County Meath I found long continued payment of rents (on Mr. Coddington's estate, for instance), and we had the greatest regard to that, and left them all unchanged, because they appeared in their inception to be reasonable and fair.

768. I suppose on Mr. Coddington's property there was no tenant right?
No, there was no tenant right. The specified value of the tenancy was fixed; he is an excellent landlord, and it was a pleasure to leave the rents as they were. We raise rents too. Some of the rents on His Grace the Duke of Abercorn's property were raised, and some of them were left unchanged, and of course the Commission got a good deal of obloquy for it, but that we do not mind.

769. Marquess of *Abercorn.*] When were they raised?
The first Commission I went.

770. You mean the judicial rents were raised?
No, the old rents were raised in some case.

771. By the Commissioners?
By the Sub-Commissioners. Mr. Humphries, the agent, will recollect the case perfectly well.

772. Viscount *Hutchinson.*] Following up that point, I understand that that particular fact of the existence of a rent for a certain number of years is not necessarily one which influences you very strongly in your decisions?
It does not.

773. Not necessarily?
No.

774. It may be a factor, or it may not?
If it was the case that it was too low, I do not think it ought to influence us not to raise it. It is only for us to fix a fair and honest rent.

775. *Chairman.*] A long continued payment of a low rent, you say, could not be presumption whatever that it should not be raised?
I think not.

776. But the converse is not so clear?
I am only a subordinate, and must follow the Head Court tribunal, but I honestly tell you I had that opinion before the point was decided.

777. Marquess of *Salisbury.*] What interpretation do you attach to that dictum of Mr. Justice O'Hagan's; is it that no presumption arises from its long continuance, or only that it is not to be a conclusive presumption?
I think he could not have gone further than to say it is not to be conclusive.

778. Your

778. Your own impression would be that it would be, all other circumstances apart, in favour of a rent that had been paid for a long time?
I would almost venture to have that opinion myself in a general case, notwithstanding his statement, which does not conflict.

779. Viscount *Hutchinson.*] You have not the actual words?
No.

780. If that is not a very important factor, I suppose to some extent you base your decisions, or arrive at the conclusion, upon the evidence as to the history of a case, would not you very much. I mean to say in this way, suppose you had got a case where a tenant a good many years ago had gone into a farm a comparatively poor man, and was at this moment a comparatively well-to-do man, and had paid the same rent ever since, would not that be a presumption in favour of keeping the rent as it is?
Yes, if he thrives and gets on well upon it, I am sure any right-minded man will be influenced by it.

781. And you accept evidence of that sort?
Yes, I do; I am very anxious to exclude much of the early history, because it often leads to a long rigmarole, and history of increases of rent. If I was the master of the position I would not have much said upon that; but my colleagues wish it, and I do not desire to intercept their wishes. They like to hear and understand the history of the gradual rises, and a deal of it is hearsay. It is not evidence. It is a sort of tribunal in which one is reluctant to be too technical; but they tell you of their grandfathers and grandmothers, and what they have been told. I exclude it where I really can do it.

782. Would you include in history evidence of what an estate has passed through, anything so recent as the proceedings of Sub-Commissions that have preceded you by a few months?
They never bring before me anything that other Sub-Commissioners have done. I never allow that to be given in evidence in my Court. It has been attempted, but I never admitted it for a moment.

783. We will suppose an estate which is shown in evidence to be practically the same class of land, and the tenants similarly situated; suppose a Sub-Commission precedes you, and deals with this estate, and makes certain decisions, would you accept the fact of those decisions having been made as evidence before you?
I would not think it of any value, or admissible. I put my finger upon it at once, the moment they begin to give me evidence of some other piece of land which is not before me. It cannot be worth anything, and I always stop it *in limine.* I do not allow the lay colleagues to hear it, so as to influence their minds. My answer to your Lordship is that I exclude it entirely.

784. Even on the same class of land on the same estate?
Even if it is on the same side of the estate, I do not allow it. There is an excepted case about the doctrine of tenant right, where you are allowed to take evidence as to adjoining estates, as to whether the usage of tenant right prevails, but as to the quality of the land, though it is even in the immediate neighbourhood, I do not allow it, for the quality of land differs in the same field, and my colleagues will not inspect neighbouring farms.

785. Then do you anticipate any very great similarity in the decisions if that rule is invariably to be carried out?
With the variety of men that are engaged upon it I do not see how you can get similar decisions.

786. So that it is perfectly possible and more than likely that land that is in the estimation of people at large precisely of the same character in two cases, may be perfectly differently treated by the Sub-Commission?
That is quite so, though I am not speaking of my knowing it as a fact.

787. Lord *Brabourne.*] That would necessarily result from there being no

uniform principle laid down upon which the Sub-Commissioners are to act, would it not?

It would, I am afraid.

788. *Chairman.*] What has been the course taken with regard to the inspection by the non-legal Commissioners; do they take particular days in the week upon your Sub-Commission?

When I first sat, we had two non-legal Commissioners assisting the legal Commissioner. Then I found that if I sat from Monday till Wednesday night, I am now speaking generally, I exhausted enough business to occupy them the remaining days in inspection; but now that I have got four instead of two colleagues I find that with the exception of about a single day or a day and a half in the week, I must continue sitting in Court. Two of them go out inspecting and I sit with the other two, and it leaves me about a day and a half to go over the orders and deliver any little judgments that I think I ought to deliver upon points of law.

789. When they go to inspect, do they go together?

They do. There was one irregularity occurred in one of my Commissions, of their having gone separately The moment it reached my ears I wrote to the head Court, to ask was that to be allowed, because I thought the owners of property ought to have the benefit of the conjoint judgment, but I never heard of its occurring again.

790. That was an exceptional case of their going separately?

I do not mean an exceptional case, because it had occurred in several instances before it reached my knowledge. My colleagues leave me, could separate in any direction and I know nothing of it, provided they come home at the usual hour in the evening. But I did obtain this knowledge from a member of the bar, who said, "Are you aware, that one goes in one direction and the other in another direction."

791. So far as you know of other Sub-Commissions, is it the case that they go together?

I have been with three Sub-Commissioners, and I never heard of their going separately except as I have stated.

792. Suppose they differ in opinion as to the value, what happens?

Then they come to me and I make the best approximation I can. I can, perhaps, never bring the one exactly to the view of the other, but I induce the one to give way that I most differ from, and then use my own influence and do exactly as if I were a county court judge; that is to say, balance the evidence.

793. When you feel yourself unable in the first instance to judge of the question of value, how are you able as an arbitrator between two different persons to decide it?

I know that there are a good many of the county court judges, like myself, who are not able to value land; I have conversed with them and they tell me that what they do is to take the preponderance of reliable testimony. That is what I do, and I aid myself as much as I can by the appearance of the witnesses and the character of the persons who come before me; I throw that into the scale, and that is the nearest approach I can make to what I think is right.

794. Marquess of *Abercorn.*] Does it ever happen to you that out of the four Sub-Commissioners, the decision of two of them upon farms that are practically the same or substantially the same, are very different from those of the other two, either much higher or much lower?

I cannot say so; I am conscious that I had an impression, whether founded upon sufficient knowledge or not, that one of my colleagues in one Sub-Commission was apt to try to go lower than the other, and I often did say to the other, in whom I had great confidence, "Try to keep him on the proper lines," and I did, I think, on an estate in one case observe a great disproportion between the valuation of the colleague with his assistant and the other one with his assistant, but this was an exceptional case.

795. They

795. They go in pairs independently?
The gentlemen I had confidence in was with another party, and he did not go so low as the gentleman, who I thought was rather a leveller, as I may call him, for distinctions sake; he went with his colleague, and I said to the one that he ought to keep the other up. I considered I was not guilty of any breach of trust in speaking to the one apart from the other, saying, "I think his proclivities are too forgetful of the rights of property, and will you speak to him"; that did happen in a single case; it did occur in one instance.

796. Lord *Brabourne*.] Had it any effect, do you think?
I was going to say I hope it had, but the gentleman is not now with me.

797. Do you mean that the leveller is not with you or the other?
I mean the gentleman who was inclined to go too low in reduction is not with me now.

798. *Chairman*.] Now there are four Sub-Commissioners; how is it arranged which two shall go together?
They leave that to me; it so happened that in the first instance no order came from the Court to me; I knew the balance of power in my own Sub-Commission, and made that arrangement of which I have spoken before any order from the Court came to me, and I got the assent of the parties to the arrangement. Then subsequently to that an order came down giving me a more ample power of arrangement, so that I could arrange or re-arrange as I thought proper.

799. So that, practically, you are able to arrange it, so that two and two shall go together?
Yes.

800. Viscount *Hutchinson*.] How many have you now?
Four.

801. Earl of *Pembroke and Montgomery*.] Have there ever been any disagreements between the lay Commissioners as to the principles of valuation, or do they all profess to value upon the same principles?
That puzzles me, because you see I am obliged to give your Lordship only qualified answers about the principles of valuation.

802. It must have come to your knowledge what principles they profess to value upon in all the discussions that must have taken place upon the value of farms?
Beyond the extent of knowing that we receive evidence of improvements in Court, and that their general habit is to allow 5 per cent. upon the purchase-money that those improvements represent, and that then they consider the general conditions of the holding; I cannot marshal the principles.

803. Putting aside the question of improvements altogether, have you no idea upon what principles they fix the fair rent?
I assure you it is a most perplexing thing, because the counsel turn the valuers inside out, and they go off the table, and leave the thing as if they themselves could hardly define it. They leave the thing so much a question of opinion that I am left very much to the result of the character of the gentlemen who value. That Mr. Murphy that I spoke of, for instance, I take everything almost he says as a certainty, because he is of such a good stamp, both from experience and position.

804. Marquess of *Abercorn*.] In Mr. Murphy's valuations does not he usually state the whole value for the landlord and then deduct what he calls the tenant's interest?
He does.

805. And then puts the remainder, after deduction, as the fair rent for the landlord?
Yes, but if you press him about the points I have been pressed about, estimating tenant right or anything of that kind, he will say I did not go into it at all, and there the matter rests.

 806. Lord

806. Lord *Brabourne.*] Did not I understand you to say just now that the Sub-Commissioners, in fixing the value, take into consideration all the circumstances, including depreciation of land in the country and the circumstances of the country?

That is so; you mean owing to the state of Ireland.

807. Yes. Ireland is the country we are dealing with. I understood you to say that they take into consideration the depreciation of land in Ireland at this moment?

I think they do.

808. When that is the case that is an uncertain quantity in the mind of every individual Commissioner, therefore that could be no definite principle guiding the whole of them?

No; but I do not know how that is to be struck out; I cannot see how it is to be rejected.

809. Marquess of *Salisbury*] Do you mean that the rise of this present agitation, and the effect that it would have upon the value of land, is an element which has been taken into consideration in lowering the rent?

I am afraid that has been a conducing cause. Everyone feels that those bad fellows are leading to that result, and no doubt the country is suffering.

809*. If they wished to lower the rent further they have only to pursue the same process?

I cannot go into that. If I was the Government I would answer that question.

810. Lord *Brabourne.*] What I meant was this: in your opinion, before they began to deal with the specific circumstances of any holding and its value to the tenant, they make a previous determination in their own minds owing to the state of things in Ireland?

I was wrong if I conveyed that. I did not mean to convey that.

811. At what stage of the process does their consideration of the depreciation of land in Ireland have to come in?

I think you will have to ask the Agricultural Commissioners about that.

812. *Chairman.*] You have very fairly told us you do not know upon what principle it was done?

I do not. I would only be hypocritical if I pretended to do so.

813. Correct me if I am wrong, but I understood you to say you really did not know, and could not tell us on what principle the non-legal Sub-Commissioners proceeded?

That would be going very far.

814. I mean in ascertaining the value?

I should not like to be reported as stating that.

815. I am only anxious to know what your answer is to be?

I would rather say that I understand, from communications with them, that they take an estimate of the improvements which are made by the tenants; that then they deduct from what would be the rent they are now paying interest at the rate of 5 per cent.; and that then they consider the circumstances of the holding, and arrive at the best opinion they can as to what the annual rent of the holding ought to be.

816. But you say "deduct"; I quite understand your view about what they do as to improvements, but from what do they deduct?

Perhaps I put the cart before the horse; it is that they first go out and look at the holding, and looking at the holding, they say, What should a fairly-disposed tenant pay annually for this particular holding?

817. As if he was a stranger to it, do you mean?

If he was a stranger to it, then they take up their pencils, and confining themselves to the evidence given in court, they ascertain what the principal would

would be of the moneys expended in improvements, and they deduct from the corpus of it 5 per cent.

818. Then if they take what a stranger to the land would pay for it, how do they get at that, on what principle?

I really think it is their own experience they must depend upon; they can get no information from me, they must get at that from the evidence; after the evidence they inspect; and I understand the true principle is, under the Land Law Act, that the evidence is to be sifted and corrected. The present Lord Lieutenant said, when he was Privy Seal, it was the result of evidence corrected by inspection.

819. Earl of *Pembroke and Montgomery.*] Putting apart altogether the question of improvements, you do not know on what principle they arrive at a fair rent?

If you take it with what I have just said, I have no objection, but a man presiding in a court of justice, announcing that he knows nothing at all about it, would not be exactly the representation I would like to make of myself. I am in this difficulty; I cannot do their work as well as my own; I can aid them in any questions of law that arise, and I can tell them what I believe the true construction of the Act of Parliament is, but how their minds operate when they get on the field to work, is more than I can tell, you must ask them that.

820. *Chairman.*] Have you had many appeals from the Sub-Commissions you have presided over?

There were a great number of appeals from the Armagh district. The reductions that were made were very large, and they attracted the attention of Parliament. They were the subject of debate more than once, but the Head Court confirmed the great body of them. I am not entitled to say anything more than this, that I was the legal Sub-Commissioner; it was on the question of the amount of the rents the appeals were decided.

821. You have said they were confirmed very much on appeal?

Practically the whole thing was confirmed.

822. Practically the whole thing was confirmed, and did that stop the appeals?

I cannot tell anything about the appeals, because we never know a bit about the appeals. I never inquire in the office, and I never know, in fact, what will be appealed and what will not be appealed. It is a common thing for the parties to say in court, we will appeal; then I never hear more, and I never ask.

823. Were you able to make any estimate in Armagh as to what the average of the deductions of rent was?

Speaking from memory, I think they were 30 or 33 per cent. I had them down in a book.

824. Thirty to 33 per cent., you say?

I think they were; and I will not conceal that they took myself by surprise.

825. Was this upon what are called the old and large estates of the country?

The only large estate was Lord Lurgan's estate. He was a minor, or had just come of age. The late lord died very recently.

826. Was there not also Lord Gosforth?

Yes, your Lordship is right.

827. Marquess of *Abercorn.*] And the Duke of Manchester, I think?

The Duke of Manchester's cases were very lately before me; but I see there have been enormous reductions of them by the Commission succeeding me. I was removed from that Commission.

828. *Chairman.*] Larger than yours?

I think they were larger than ours.

829. I suppose those are three of the largest and oldest properties in the county, are they not?

Yes, they are. If your Lordship wishes me to give the scale of reductions arithmetically, I will furnish it; but I could not do it from memory.

830. What could you give us?
As to the quantum of reduction on the estates, I could be quite precise as to that on the Armagh Commission.

831. I think the Committee would be very much obliged to you if you would, at your convenience, forward to them a statement of the average of the reductions in that Sub-Commission in Armagh?
I will do so

832. And also the average of the reductions on what I call the large estates, such as Lord Lurgan's, Lord Gosforth's, and the Duke of Manchester's?
Confining it to the Armagh Commission, your Lordship means; your Lordship does not want our present ones. I am in Tyrone now.

833. How long have you been there?
This will be my third circuit in Tyrone.

834. Then, perhaps, at the same time, you would let us have it for Tyrone, too?
I will do so.

835. Marquess of *Salisbury*.] When the Government valuers existed, did you communicate the report of the valuers to the litigants?
I did in my court. The sub-registrar held them under me, and he gave me the reports, and he or I read them out to any of the gentlemen who asked me.

836. Before the case was argued?
No; after that was the decision of the Head Court. I had no voice in that. They decided that we were not to do that before the argument, or preceding the judgment even.

837. It was only a matter of historical curiosity then?
It was in the order given me. Of course, I could not depart from the directions of those above me.

838. Had you, before you received those directions, taken any course with regard to those reports?
I had merely said in court that I saw no objection to that, but I would not pin myself to that, because I said I would do whatever my employers told me to do.

839. Then you received an intimation not to do it?
It was a direct injunction to us to withhold them, and only to give them after the judgment. I acted strictly within the line of duty.

840. Lord *Tyrone*.] I understood you to say that your duty is to lay down the law for the other Sub-Commissioners?
Yes.

841. And their duty is to hand in to you the return of what they think would be a fair rent?
It is. When I tell them to include buildings (to take that as an illustration), because they belong to the landlord, they assess the rent upon the buildings for the landlord, and make the return. I cannot pursue them into the fields to know how much they do allow for them.

842. Have you ever found the lay Sub-Commissioners have dissented from you on points of law?
I had a disagreeable altercation once with a non-legal Commissioner, who, in the court, did interfere with me in the administration of the law, but I repressed it.

843. If the other two Commissioners were to vote together upon a point of that description, they might possibly out-vote you?
But I would not tolerate their doing so, as far as my humble position enabled me. I do not allow it. In that case it was a nice question about the surrender of a lease. I was deciding the point, and one of the lay Sub-Commissioners

sioners interposed and dissented, and the Head Court afterwards, I understand, rebuked him; they sustained me in my view. I said I would only be corrected by a competent tribunal, which was the Head Court.

844. You referred it then to the Head Court?
No, I ruled it in Court, and delivered judgment; it was a question on whic the lay Commissioner could exercise no judgment; I did not refer to the Head Court.

845. Viscount *Hutchinson.*] Do you mean that they had not to do so, or that they had not the power?
I would not ask the Head Court to do anything that I thought I ought to do of my own motion, because they can correct me on appeal if I am in error.

846. I do not mean that particular case, hut any case in which there are two Sub-Commissioners associated with you, who venture to contradict you or disagree with you upon a point of law, what would your course be?
In that case my course would be like the course I took in the other case; I ruled that the tenant was within the provisions of the Act of Parliament, and that they should assess a rent on the basis of my ruling. This Commissioner left the Court, saying he would not do it, and for that he was, as I understood, rebuked. I never saw the rehuke, but it was communicated to me, that the Head Court of themselves (not at my instance, for I did not ask for any interfeience) found fault with bim, and he submitted and joined his colleague in fixing a fair rent.

847. Lord *Tyrone.*] Have you ever had any case in which two other Sub-Commissioners have over-ruled you on a point of that kind?
The nearest thing they ever did was, on some of the questions relating to town parks, which appeared to be mixed questions of law and fact. I have had only once the two dissenting from me; but in a case in Tyrone, upon my demonstrating to their understanding that it was a pure question of law and not of fact which arose, they acquiesced in my ruling when I held that the tenant was not entitled to a statutory lease. I believe the tenant has appealed.

848. Viscount *Hutchinson.*] Was this lease case appealed?
The lease case has been appealed, but has not come on, and the other case of the town park in which they gave way to me has been appealed, and I did them the justice to say in the judgment I gave, that I was entirely responsible for putting the tenant out, because if it had been left to my colleagues they would have let the tenant in, for I considered it would not be fair and straightforward to put it upon them. It was not a case of fact, but of law, and pure law.

849. Marquess of *Salisbury.*] I suppose in the decision of a case like that of Adams *v.* Dunseath, the responsibility and the power would rest entirely with you?
It would.

850. Lord *Tyrone.*] How can you tell whether the other Sub-Commissioners carry out the principles laid down in Adams *v.* Dunseath?
I cannot possibly do it.

851. You cannot tell?
I do not think any man could tell you that.

852. Then you have no guide whether the law is really heing carried out as laid down?
I am in that difficulty; I cannot mathematically assert it.

853. Earl *Stanhope.*] There is one question I wish to ask you about something you said just now. You say the lay Commissioners allow the tenants 5 per cent. on their improvements actually made?
Yes; I have not known it to exceed that.

854. That is a general rule?
It is on the Commission I represent.

 855. And

855. And that would be improvements of a permanent character, I suppose? Yes, reclamation, draining, and fencing.

856. What would be the fencing?
Fencing of farms.

857. Stone fencing?
They allow in proportion; for stone fencing they allow more, and for other fencing they allow less, and very often men try to get a great advantge by multiplying fencing; but my colleagues always assure me that they never allow for it, unless it is a decided improvement to the farm.

858. Five per cent. on the improvements made by the tenant, even when the landlord has given the material; the tenant makes the building, but the slating and timber is given by the landlord?
That is always a set-off or reduction; that is to say, I have it down in my book whether my colleagues work it out in arithmetic, or not, I do not know, but I have no reason to doubt it.

859. Where the tenant has made the improvement, and the material has been supplied by the landlord, then the Sub-Commissioners would not give 5 per cent., would they?
If there is more than the value of the things allowed they give the excess to the tenant.

860. Lord *Tyrone.*] You answered the question just now about the difficulty of finding out the specified value?
That was in the south; I have not that in the north.

861. You have not that difficulty in the north?
No, that difficulty does not arise in the north, because I have not had before me any estate on which there has not been tenant-right.

862. If there is no evidence put in by the landlord would that make it more difficult for you to estimate the specified value?
I think I used to hold in the south, that the onus was upon the landlord to show the specified value. There was a case of the Duke of Leinster and some clergyman in which there was a contention of that kind. I held, and I was not over-ruled, I believe, that the onus was on the landlord to show the specified value of the tenancy.

863. Do you mean that the onus was on the landlord or on the tenant?
The onus was on the landlord.

864. And supposing he did not produce any evidence upon that point, what would you think would be the right mode of procedure?
I am trusting so much to memory now that I am afraid I cannot tell you what I did in that case. I must supplement it.

865. Would you say, if there was no evidence of that sort produced on the other side, the tenant ought to get the benefit of the full competition value?
I would say nothing at all, I think, if they produced no evidence. It struck me that we should say nothing about it then; that was on my first Commission 15 months ago.

866. *Chairman.*] You spoke about 5 per cent. for value of improvements; I forgot to ask you how the value of the improvemeats is arrived at?
The tenant is always asked what it cost him to do such and such work. A very important element is land reclamation. The tenant after telling what quantity he has reclaimed, is asked what it cost him; that is the form of the phraseology; then he says so many pounds per acre; then the fences in like manner, so many perches of fences; he is asked how many perches of drains he has made. Then the Sub-Commissioners represent to me that they go out to see if the drains are in good working order. They do not profess to be able to know whether he tells the truth as to the number of perches. I fancy, from what I hear, there is no way of measuring drains, because they are inside. You would have to excavate, as I collect, in order to get at them, but they see them

them at work, and I suppose the rest must be taken on the credit or the truthfulness of the man himself, and then they put the price.

867. Five per cent. on the cost?
What they generally charge is 1 *s.* a perch for each perch constructed; then my colleagues tell me they correct that evidence by seeing whether the fencing has been useful.

868. I thought you said the tenant began by saying how much it cost him?
He does.

869. Then do they take what it cost him into account?
They make a deduction for the use he has had of it.

870. Do you know on what scale they make that deduction?
I cannot say that I do. If it exceeds 30 years, nothing at all has been allowed. If the fence has been erected 30 years, under the Act I tell them that he can have nothing for that, but that does not apply to reclamation of a permanent nature.

871. Marquess of *Abercorn.*] Whatever time the tenant may have had enjoyment of the reclamation there is no allowance made for it to the landlord?
That is under the Adams *v.* Dunseath view of the question. That has never been applied to the northern counties as yet, so far as I know.

872. So that if a tenant had reclaimed 40 years ago he would still get the benefit of it now in reduction?
It is a moot point whether the case of Adams *v.* Dunseath applies to a tenant-right holding under the Ulster custom. I have never had it to decide. I do not know of anybody who has ever decided it.

873. *Chairman.*] Adams *v.* Dunseath was a county Antrim case, was it not?
It was, but the parties consented (nobody can tell why) to treat it as not within the Ulster custom. Really, according to fact, it was a tenant-right holding. The parties had so stated the special case as if there was no Ulster custom.

874. Lord *Tyrone.*] You said just now that in fixing the rent your coadjutors took into consideration the fall of prices, what did you allude to as the fall of prices?
I mean to say there are certain articles in which there has been a rise of prices, in some cases a fall. For instance, flax is absolutely worth nothing now. In the flax-growing districts it is found to be a crop not worth producing. That is the general evidence in the northern counties.

875. I suppose, on the whole, from the evidence that you have heard given before you, you would suppose that prices had materially risen since a great number of those rents were fixed?
From 1846 to 1848 the prices became very high.

876. I mean, not of flax particularly, but of farm produce generally?
Yes, I would say so, from 1846; I am old enough to recollect that myself.

877. Has there been any difference in the proceedings of the two lay Sub-Commissioners in the different Sub-Commissions you have been on?
The ones that I have been on have always uniformly acted in the way I have mentioned. I am not able to speak of any other.

878. I am talking of the Sub-Commissions upon which you yourself have been acting?
The only thing that differed was this, that in the northern counties the doctrine of the specified value of the tenancy does not apply.

879. I mean in viewing the land, and things of that sort, have they differed?
No, they always go together. The two always went together, and now the four separate into twos, and those two go together.

880. Have the Sub-Commissioners ever insisted upon evidence being taken that you objected to?

The lay Commissioners never attempt to interfere in questions as to the evidence to be admitted. The valuers value the improvements, and the holdings; and the ground upon which they value the improvements is the reason why I am always impressing upon my colleagues the necessity of caution; it is principally gossip that the valuers hear on the land, because they have no means of ascertaining the improvements; and I endeavoured to exclude such evidence, but the lay Commissioners assure me as practical men (they put it in that way), that though they do not act upon that evidence itself, it is of utility to them; I do not like it to be taken down where it is not evidence, and I generally exclude it as far as I can.

881. I understand from you that those two Sub-Commissioners have always walked over the land together?

With the exception of the case that I reported to head-quarters the moment that I heard it. I thought it was not right; but it is right to say that I do not think the gentlemen meant to do wrong; it was zeal to do the work expeditiously.

882. There are reports, I think, given by the court valuers; or there were at one time?

Yes, those were alluded to; those are shown after the judgments.

883. Do you think it would have been better if they had been shown before the judgments were given?

I dare not say that; I even thought myself I might show them, and had exercised a discretion as to that; you know what my opinion would be from that, but I was told not to do it, and I, of course, at once obeyed.

884. I think you gave an answer to Lord Cairns early in the sitting of the Committee about improvements; I did not quite understand it. Where tenant-right exists do you consider the improvements as well as the tenant-right?

No, never; I have always told my colleagues to take only the improvements; the things specified in the Act.

885. And not the tenant-right?

I have never meddled with the tenant-right.

886. Have you found from experience that the Sub-Commissioners have carried that principle out?

The only information I ever got imparted to me was when I said, what is the money or arithmetical value, if any; they say, we always value with a knowledge that it is a tenant-right holding, and beyond that I have not collected anything, and the valuers on the table who appeared for the landlords, the very best, say the same.

887. What is your experience of the class of valuers that have been put in by the tenants generally?

Almost equal to nothing; their opinion, I think, has no weight, because they are farmers, and they have no training. I do not mean when the tenants employ (which they do occasionally) regularly educated valuers; then of course they are the same for tenants as for the landlords. I have some in my mind at the present moment; and when speaking of what valuers they have put up, I have gone to the length of saying, It is a downright insult to put such men into the witness-box in the hope that they would influence the Commission.

888. Marquess of *Abercorn.*] It is rarely the tenants put up a good valuer, is it not?

Rarely.

889. Lord *Brabourne.*] If the tenant's witnesses have no weight, and the general result has been the reduction of rent, do you mean to say that the decisions of the Commissioners have been formed upon the landlord's evidence or something extraneous to the evidence altogether?

I think they themselves practically have been the valuers, and that is not inconsistent with their idea of duty. They are to hear evidence, and correct it by their inspection; some tenants' valuers do not bring the rent up to half what it is at present.

890. What

890. What you mean is, that they are to hear evidence, but that they are to exclude the evidence altogether, and form their judgment upon their own opinion?
The way Lord Spencer put it is, that they are to correct the evidence by their own inspection, whatever that means; I take the passage from the London "Times." It is to be a decision in which their own inspection is to be corrective of the evidence, and this is far better for the landlords; if the Sub-Commissioners were not good valuers the landlords would be ruined, because we would then have to receive the evidence of those persons who come forward as valuers for the tenants who constantly reduce the rent more than one-half.

891. What I mean is this; they exclude, as I understand you, the evidence of the witnesses for the tenants, as being that of incompetent persons; then they hear the evidence for the landlord, and after all they form their opinion of the value on their own judgment; therefore, practically, they might as well have no evidence at all?
That must not be received so generally as you state it. I would not like without statistics to tell you that, but in a great multitude of cases the landlord's valuation reduces the rents very considerably; sometimes the two have come so close, that we have closed upon the offers in Court and said; "Is it any use inspecting when you are so near?" That occurred the other day.

892. That would not be general?
No; by no means; that is quite exceptional.

893. Lord *Tyrone.*] I understood you to say that the tenant's valuation is not reliable as a rule?
I really think it is of no weight; the valuers are small farmers. I generally ask them the question, "Are you in the list?" They either are, or expect to be, and they have had no training whatever as valuers.

894. Marquess of *Salisbury.*] It is generally a neighbour, is it not?
Generally a neighbour. I have had in the box a valuer, and after having gone over two or three cases, he himself has appeared, though my eye had not caught his name in the list, and I have said, "You were valuing a few minutes ago, were you not?" and he was.

895. Lord *Tyrone.*] Now with regard to improvements, is it the principle of your colleagues to give credit to the tenants for making fences?
Certainly; but they always assure me that if the fence does not materially benefit the holding, they would not do anything of the kind; that is one of the terms of the Act.

896. They would consider fences made within the interior part of the farm?
Yes, they would.

897. Suppose a tenant was to put in a claim for taking down so much fencing, and for putting up so much more fencing?
That is very common.

898. Would your colleagues be inclined to allow both?
I was dead against it, and the only way of its being allowed is in a case where some very trifling thing is allowed for pulling down, or where he has materially enhanced the value of the holding; the mere taking down is constantly urged by the tenants; but first pulling down and then putting up, sounded, as it was, a most outrageous thing.

899. Then you would only allow a substantial payment for the putting up of the fences, I understand?
Precisely.

900. Within the farm?
Within the farm, and not even that if it were fancy work instead of beneficial work to the holding; I am always impressing that, and do not think I require to impress it. I do not know a gentleman, I think, on the Sub-Commission who would not value in this way.

901. Now with regard to the reclamation of land, I have no doubt you have cases before you of the reclamation of bog-land?
A great deal in Tyrone.

902. You gave an answer just now on the question of considering the time which the tenant had been in occupation; I understood you to say that you did not consider it?

By the provisions of the Act time does not run against either reclamation or permanent improvements. We always do this, because we find it a great test; we ask the value of this land which is reclaimed; what is the thing worth now that it is reclaimed, and with a view to get a reduction of rent they put next to nothing on the reclaimed land. They ask 6 *l.* or 8 *l.* per acre. Then we immediately say, "What rent ought you to be charged for that land so reclaimed?" They then say, perhaps, half-a-crown, or something of that kind; it then of course melts itself into nothing.

903. How could you assess the rent under those circumstances?

We do not give them credit for anything for those improvements, but treat them as a very little thing.

904. You would not give anything for such improvements?

Not on the scale they claim.

905. Supposing a piece of hog-land had been let for a certain time for reclamation purposes, would you think that the rent should be raised upon that hog after the tenant had repaid himself?

That has never been presented to me.

906. A case of that sort has never been presented to you, you say?

Never; it has never been urged. In the case you speak of, the landlord generally lets it for half-a-crown for the purpose of getting the tenant to make something of it; it is really more nominal than real. The landlord in a multitude of cases of that kind gives it almost rent-free.

907. Would you consider it right for him to go and give it rent-free for any length of time?

No, we have never done that; but if we find it a real good thing, and brought into a high state of cultivation, I think the landlord does not suffer for his bounty. I think a rent is put on it proportionate to its actual condition.

908. Do you think the landlord would get the advantage or not?

No, I think the tenant would be assessed in a rent proportionate to its improved condition; that is my opinion. Suppose it to be all hog-land, the tenants have gone on 30 or 40 years reclaiming, and brought it into a state of cultivation; I think then there would be a rent put upon it according to its then condition.

909. At which time do you mean?

In its improved condition.

910. Then according to that, the landlord would benefit?

He would benefit, looking at it in one point of view, but he would lose in the back point of view.

911. Why would he lose?

All these years he has never got anything but 2 *s.* 6 *d.* for this land I speak of.

912. That was his own fault, was it not?

It was his goodness.

913. For the future, you would think he ought to get the rent up to the fair value of this land?

Yes, minus what would have been a fair outlay in bringing it to that state, and though the tenants when they see us writing down what they say, claiming 10 *l.* an acre, think the evidence is acted upon, they are mistaken.

914. Then your colleagues would go and view this bog?

They would.

915. And they would try and arrive at what it had been?

Yes.

916. And

916. And the value of the tenant's outlay?
Exactly.

917. You would put a great deal less value upon that land than you would upon ordinary land in the tenant's occupation?
I would say that that would be a wrong aspect according to my notion; it would be valued according to its condition, but a tenant would get a fair credit for his outlay and labour.

918. Have you heard of any instance of sales of tenant-right taking place after a judicial rent has been fixed?
No, I have not. We have several instances where, while the notices are pending, there is a traffic in the tenant-right, and there is a good deal of exertion on the part of the advocates of landlords to show that whatever the rent was then it should not be altered, and that they ought not to be allowed to go back upon it, but I have in my humble judgment not followed that view. I have thought, as long as there is a right of reduction of rent evidenced by the notices given of the application to reduce, that that is a fair incident to the right of sale, and that the vendee or purchaser is entitled to the same privileges as the vendor.

919. Viscount *Hutchinson.*] Would not that give rise to a certain amount of speculation?
It does.

920. In a case where the tenant right is put up for sale, does it not become rather a question of who will give the most for it on the chance of the rent being reduced?
Your Lordship is quite right, it has that inconvenience; that question will be tried by the superior courts; the parties have not accepted me as a sufficient authority, and will or have appealed.

921. You do not think that the fact of the tenant-right of a farm being bought, we will say in 1880, and the in-coming tenant, the buyer, coming before the Court as soon as he can, the next year should be taken as a presumption of fair rent?
I quite agree with your Lordship there that that makes a great difference. I remember in the midland counties, in which we turned one man out of Court who came in under those circumstances and never paid a penny rent; it was attributed to his being a Land-Leaguer, but we had not an idea of his being anything of the kind, so that it could not have entered into our contemplation; it was done on the fact that he came there just on the eve of the act, as a competent man and bought the thing with his eyes open, and we did not ask the landlord to go into the case, but dismissed him on proof of his own facts.

922. Did you take the recent purchase as a guarantee of the fairness of the rent?
Yes; a magistrate at Kildare at the end of his lease worked away to impoverish the land, and came into Court to get his rent fixed, thinking that he would get it fixed, looking at the property he had himself impoverished, but we dealt very summarily with him. We did not turn him out, but we fixed him at a rent that the land would have been worth if he had never done it a bit of mischief; then he tried to slip away from the statutory lease.

923. By statutory lease you mean statutory term?
We fixed a statutory term upon him. I do not know whether he can emancipate himself from that or not.

924. Lord *Tyrone.*] Are you in the habit of stating, for the information of the litigants, the history of the case before you give your decision?
Very rarely, unless it is a point of law.

925. There is no statement given?
The last time I was at Cookstown there was an estate in which the tenants had had wonderfully good treatment. I was myself not aware of it; I had not been out to see the farm, but my colleagues told me how handsomely they had

bad been treated for a long time. It was the case of Commander Dawson's tenants; one of my colleagues, a very intelligent gentleman, wrote a little summary, which I delivered (I was the mouth-piece, but it was practically his), practically there were no reductions. One does get sometimes cases where there is exceptionally severe usage, or severe treatment, but, excluding those, I confine myself to very succinctly stating the points of law. I do not think the public care about long judgments.

926. Have you not been asked by the counsel, on one side or the other, to state the history in giving your decision?

Yes; and to give him information as to the workings of my mind. There is a very forward advocate on the Northern Circuit who presses persistently.

927. Have you refused to do so?

I have. I refuse peremptorily; and refuse even to consult the Head Court upon it. I said I would not yield my position of exercising an independent judgment by consulting anybody.

928. Marquess of *Abercorn.*] Were you not required by Dr. Todd to do it in a rather arbitrary letter?

I was, in a very arbitrary letter. He said this; that the tenants demanded this and that; and I gave him what I thought a proper answer and refusal.

929. Lord *Tyrone.*] The same thing might occur on the landlord's side, might it not?

Equally so.

930. You would not state the history of the case when you were giving your decisions?

Dr. Todd wanted me to tell the tenants all the workings of my own mental operations in supposed cases, that he might have an opportunity of ransacking them and writing about them, and perhaps appealing.

931. We have had evidence before us that some of the legal Sub-Commissioners were in the habit of stating the history of cases; but they gave up doing so because they were not asked for it; is that your experience. You have been asked for it, but have not done so?

I refused it on the principle that I am an independent tribunal, and will give just as much as I think it is correct to give to enable the judgment to be understood.

932. Viscount *Hutchinson.*] We understand generally that before you entered into your duties there were no instructions issued to you by the Commissioners upon the point, but still we have some sort of indistinct indication that you are expected to give reasons. You recollect there was a letter written to the Sub-Commissioners by Mr. Godley, in which there were certain instructions or hints given as to not making speeches, but to confine themselves to the necessary explanation of the ground of their decision?

I think the reason of that was——

933. I do not want to know the reason of the letter?

I think that was occasioned by this. There was a disposition on the part of the community to make our Courts arenas for demonstrations, and I found the way to correct that was never to deliver a judgment in the town where I heard the cases, so that the applauders or expected applauders had no means of gratifying themselves; I therefore delivered my judgments in the next town.

934. That may have been the reason of the letter; but that is not the point I am aiming at. It appears some statement was contemplated on the part of the Sub-Commissioners?

That is the public.

935. Yes, he says he hopes the Sub-Commissioners will confine themselves exclusively to the necessary explanation of their decision?

I think the meaning of that was to exclude anything in the shape of public speechifying. But a judge in giving reasons need not be too explicit.

936. If that was the case, and it was contemplated by the Chief Commissioners

sioners that there should be grounds given, would it not strike you that whenever any point was raised by counsel, or any question asked as to fact or as to law, it is very reasonable that the counsel and the parties and the public should expect some sort of indication on the part of the Sub-Commissioners delivering judgment, that they do form an opinion upon the point raised?

I think that is quite right. If ever I am asked for an opinion on the fact of the case, I never withhold it. I put it on paper that the Head Court may correct me; but the case to which his Grace the Duke was referring was a case in which Dr. Todd put to me hypothetical cases, and required me to state what in certain circumstances, and under certain conditions, I would do in reference to them.

937. Marquess of *Abercorn.*] While they were *sub judice*, I think?

While they were *sub judice*. I entirely agree with your Lordships, and I always do give, in the most outspoken manner, the reasons for my decision.

938. Viscount *Hutchinson.*] We have been given to understand, in evidence before us, that that is not always done; that points have been raised by counsel in cases which, when the judgment has been delivered, there has been no attention of any sort paid.

I can only speak for myself, and I have no cognisance of it.

939. Lord *Tyrone.*] I should like to know how it is possible for you to give those reasons if, as you say, you cannot find out, whether, for instance, such a case as Adams *v.* Dunseath has been carried out by your Assistant Commissioners?

If that question were ever raised before me, I would not ask them to decide about it, but would decide myself whether it applied to the north or not; but I have never been required to do it. There has never been an instance in which a case has appeared so clear that there has been the enjoyment of a fair compensating value of the improvements to raise the question, and nobody has ever required me to decide it; but if they ever do, I will decide it to the best of my judgment.

940. I suppose the case, as you say, has not appeared clear in consequence of no reasons being given by other Sub-Commissioners?

No; no evidence has ever been elicited on facts which would require me, as a lawyer, to give an opinion upon it; but whenever that does occur I will not hesitate to do it, whether rightly or wrongly; I will give it according to the best judgment I can form.

941. But how can evidence be given of that description?

What branch of Adams *v.* Dunseath does your Lordship refer to, for that is a long matter.

942. How could the counsel for either side arrive at whether that Adams *v.* Dunseath decision had been taken into consideration if the Sub-Commissioners do not even state to you their grounds for raising or lowering the rent?

In the case of Adams *v.* Dunseath 2 *l.* was put upon a house, I think; it came ultimately before Judge O'Hagan; the court over-ruled him, and then sent it back to assess the rent, and the rent was assessed upon the house, and that is the way it was worked out; but I do not know how I could ever be able to tell this tribunal, or any other tribunal, in what way the thing had been practically worked by my lay colleagues. I do not see my way to that, and I quite agree with your Lordship in that respect. That is the course of legal procedure in many cases. How can you tell how a jury deal with a verdict? You cannot get hold of the precise grounds on which they acquit or convict.

943. Would not a jury be upon their oath, and are your lay colleagues upon their oath?

No, they are not. That has often been regarded as a great defect.

944. As to reductions in rent, have you in your experience seen many reductions made of a small character on small rents; I mean such as taking off a few shillings, say taking 10 *s.* off the rent?

That we quite condemn. It has never been done within my experience.

945. You would not alter the rent if there was only a very small difference?
No, and I know that is not liked by the Head Court. I know it is not liked by them. I have no record in writing, but I have had it from their lips.

946. Therefore, if the other Sub-Commissioners do not put a large reduction, you would not reduce at all?
Are you now speaking of the Appeal Court above?

947. No, I am speaking of your own Court?
Speaking of my own Court, I would not do it at all, if it were only a shilling transaction, or something of that kind; and unless it were something substantial, they would not do it.

948. Marquess of *Abercorn.*] By that you would not include 5 per cent.?
No, I mean something like 1 or 2 per cent.

949. Lord *Tyrone.*] But such a thing as 10 per cent. on 20 *s.* a year would not be a very large reduction?
I think they have done that often.

950. They would do that?
Yes.

951. That would be a small reduction, and yet your Commission would carry that out?
I do think they would.

952. When you gave the former answer you were speaking of taking of two or three shillings?
Precisely; that is what I thought your Lordship meant.

953. But they would alter the rent if they thought there was such a thing as 10 per cent. on 20 *l.*?
Indeed they would.

954. I think you answered a question before upon this point about having two sets of Sub-Commissioners; do you find that a good system?
I think it adds to the expedition of the work, and I do not think it diminishes the care, for I do not sit in Court galloping through the cases, beyond the area which I know my colleagues can satisfactorily work; of course I am dependent upon them for what their capabilities are, but the average is about 200 acres of large holdings, and about 150 acres of small holdings, and that area has to be carefully inspected. I tie myself to the list to that extent, and when I find I have reached that point, I stop for half a day rather than go galloping on and inducing them to go galloping on. That is my only guide.

955. Do you find the two Sub-Commissioners that work together agree with one another when they come into you, or have you often to give a casting vote?
Very seldom.

956. Then, do you find that in valuing on the same estate, the two different sets of Sub-Commissioners have run on a different scale of reduction?
No, I think I have answered that question before, that I only found that to occur in one instance, and when my attention was drawn to it, I asked my colleague to speak to the other one. It did occur on a single estate, but I should tell your Lordship this, that I generally try in hearing not to divide estates, because of the great saving of time that it involves. I almost uniformly keep the two men who begin with an estate at that estate.

957. Marquess of *Abercorn.*] I know a case where in a Sub-Commission of four, two Sub Commissioners valued practically the same farms on the same estate at 15½ per cent. lower than the other two?
Yes.

958. If that case came before you, you would have no power of regulating that, I suppose?

I remonstrate;

I remonstrate; in the only case I had of that kind, I got one colleague to speak to the other about it.

959. There were four here?
I have two colleagues, which I consider in each interest, or in each division; I have two, what I call rather landlords'-men and two rather tenants'-men; not meaning improperly, but it is impossible for the human mind not to have proclivities.

960. Marquess of *Salisbury.*] But who furnishes you with that equal division; is that the Sub-Commissioners, or do you select them for yourself?
Which equal division?

961. Two landlords' and two tenants' men?
It is my own penetration, if I may so speak, looking at the opinions of my colleagues.

962. How would you do, if you had three tenants' men, and one landlords' man?
I would make the best of them, and argue with them as often as I thought they were not going right. I had to write up to the Commission on one occasion that my Commission was not evenly balanced. You would not ask me to give names, because it would be an invidious thing?

963. Certainly?
I did write up to say, I have no representation of property here; the thing is not balanced.

964. And your recommendation was attended to?
It was.

965. And I suppose the proclivities of every Sub-Commissioner are pretty well known?
Well, the newspapers seem to find them out, or assume to do so.

966. Do you think they find them out with accuracy?
When we went to the north they picked two of us out as southerns at once, and began to abuse us very much.

967. Are the southerns supposed to be more in favour of the rights of property than the northerns?
No, the real reason was, that they thought we were not sufficiently advanced; they took hold of the southern topic to show we were not familiar, or could not make ourselves familiar, with the Ulster custom. That is a thing to be learned in a few months.

968. By advanced, you mean in the reduction of rent?
That is what I mean, looking from their point of view. Mr. Ellis and I came in for some hard knocks, but we do not mind that, we have survived it.

969. Viscount *Hutchinson.*] With regard to notice to mortgagees, what has been your practice?
Whenever I find there is the least doubt about an estate being solvent, I require that they should be served with notice to bring the real party interested before me.

970. We have in evidence and know a great number of Irish landlords are left with only a small margin?
I have found it so.

971. It might happen, and we know it has happened in certain cases, that the margin has been reduced to such an extent as to destroy practically the mortgagee's security?
It has.

972. How do you arrive at the conclusion that the estate is not likely to be insolvent before you hear the case?
If I am dealing with a trusty man, a solicitor, of a certain class, I say to him: "Do you assure me that this is an unencumbered estate, or so lightly encumbered that I have a substantial party before me"; and when I see, which I do not find it difficult

difficult to do, by inquiries of him, and inquiries of other persons, that the landlords are well to do, I then entertain the case as a proper case to be considered.

973. In that case you would give notice to the mortgagee?
That is not required unless you begin to have a doubt that the case is a proper one.

974. Is that the letter of the Act?
That is the rule of the Court. Being accustomed to Chancery practice I thought the mortgagee would be a necessary party to the contention, but it is a rule of the Head Court that he is not to be called upon; he must be active, step forward, and protect himself.

975. Is that quite evidence, by a sort of private inquiry, as you seem to suggest, that you should satisfy your mind upon those things; would not the proper mode of procedure be to summon the mortgagee; the mortgagee knows or should know what the position of his security is, and if he does not consider it good enough, after you have dealt with it, he will be represented. but if he considers it so large, that even if you do deal with it, it will be sufficient, he will not appear?
There is hardly such a case as your Lordship speaks of that comes before me, in which there is not a receiver. In nearly all the encumbered estates, though persons are not now realising their securities by sale, because they could not get a sale, they take care of themselves by a receiver. I never allow a case of that kind to be discussed without a direct order from Judge Ormshy, that the receiver should attend and protect the estate in the interest of the mortgagees. For instance, in the case of Lord Lurgan's estate, I would not think from his reputation in the whole country, of asking whether he was the solvent owner. I take down "The attorney undertaking to assure me he is." I remember a case in which Cardinal Cullen was the person having the beneficial interest. The solicitor assuring me that there was a large margin beyond the encumbrances, I dealt with it on the solicitor's undertaking,

976. With regard to middlemen, have you had much experience in that sort of case?
Hardly any. It comes within our cases of fair rents.

977. Suppose the tenants of the middlemen come in to have their rent reduced, do not you give notice to the head landlord?
Never.

978. It might happen that the middleman by collusion with his tenants at the end of his term might go to the Court unknown to the head landlord, and have his rent reduced, might it not?
I cannot take care of everyone.

979. Surely it is a case where a notice ought to be given, is it not?
Our order would only be effectual *inter partes*; if these are persons who have rights paramount, our order would not have the least effect upon them.

980. The head landlord affected in this way, receives a certain rent from the middleman, and it might happen that the rent the middleman is receiving from the sub-tenants would be reduced below that rent by the Court of Sub-Commissioners; that variously diminishes the head landlord's security for the payment of his rent, does it not?
Let me see how that would work. I think the head landlord would, under his contract, be able to evict.

981–2. With the privilege of taking a less rent?
I will not omit looking into this point; but when you ask me, it has not occurred to my own mind, and no advocate has started it, but I will not fail to turn it over and see how it does operate. I cannot tell you how it is, but I will treasure it up, and if such a matter comes before me, I will take care of it.

983. Lord *Brabourne.*] Do you find much difficulty in your Court, and much delay, in consequence of tenants not stating previously to their coming into Court, what improvements they claim?

No

No, because that difficulty has been met. This Committee, I think, was the means or occasion of having that set right. It was a great want. This Committee made a suggestion or a Report, leading to that conclusion. The tenants give particulars now of what they mean to claim, and I hold them to the particulars now in the Court, with this simple reservation: I follow the equity and law courts, in this, that if the particular thing, such as reclaimed lands, is mentioned, I do not hold them within a quarter of an acre of the quantity, but I hold them substantially to their particulars. If the fences are mentioned, say 60 or 80 perches, I would allow them to give proof of say, 90, but with that reservation I hold them tight to the particulars.

984. Are they obliged to furnish those particulars, unless the landlord demands it now?

There is this power, if they do not do it on demand, an order is had from the Head Court that they do do it. I have no jurisdiction, but the Head Court has, and this order is made at their risk of costs.

985. Do you see any reason why they should not be under a necessity, in the first instance, in claiming reduction of the rent to specify the improvements which is one element of their claim?

I do not see why.

986. Would not that be the simplest method of proceeding?

We never were obliged in the law courts (or in the equity courts) to start with particulars.

987. I want to ask you, if it is not a question that you dislike to answer; had the rents on your own estate, which have been reduced 18 per cent., been paid many years?

Since the famine years. It took myself very much by surprise, which shows what bad judges we are in our own cases. I fixed the rent through a mutual friend, an engineer of ability and position, and the tenants and I were both satisfied, and I never lost a half-penny by them.

988. If the tenants and you were both satisfied with those rents what is the disturbing element which comes in and says they are not fair rents?

I was as ill satisfied with that, I may tell your Lordship, as anybody, but I said, I am in this position, I cannot go down to Court to contest it, and I never went at all; I left it to the Commission.

989. I suppose some extraneous element came in to render that rent not a fair rent?

Look at the Bar; now you cannot make a quarter the income that could be made when I was in early practice.

990. I suppose you would sum it up in few words as the exceptional circumstances of Ireland?

It is the miserable condition of things that exists; money is not got as heretofore; we have never got the same fees for the last year or two in practice as formerly. If you ask me why, I can only say that people have not the money to give.

991. You never thought it worth while to appeal?

I did not think it becoming in my position to appeal, as I was cutting down other people's rents.

992. Marquess of *Salisbury*.] You look upon it as a sort of penance?

Well, 18½ per cent. was not very heavy.

993. Do not you think that very heavy?

I declare that I have been so accustomed and habituated to see much larger reductions that I do not think it so heavy; I think I got very well off considering.

994. Considering what you had done to other people?

I would not put it in that way, but considering what had been done to other people.

 995. I think

995. I think I understood that you received from a high quarter the sanction of your practice not yourself to interfere with the judgment valuatioo by inspection; did not Mr. Forster tell you so?

I wish that to be quite understood, because he would not, I am sure, hesitate at my telling it. I said to him at the time, Mr. Forster, whilst all these gentlemen walk the lands I could derive no benefit from walking them and inspecting the holdings, because I have no knowledge of these things, and it would he only right for you to know that I could not do that; physically I do not think I could have done it, irrespective of want of knowledge.

996. You could not walk the distances?

No. Sometimes these gentlemen begin at eight in the morning, and we do not dine until seven o'clock in the evening, and I suppose they are walking all that time or driving from one place to another, and those are very long hours. I said that I would be unable to give any assistance in that point of view, and that I could not correct their judgment on valuations hy inspection, and he said, "That will not be expected from you, it is the legal knowledge you have to exercise."

997. I suppose you understand that the rest of the legal Commissioners were instructed in the same manner?

I believe not; I had a knowledge of some persons whose opinion of land was worth a good deal. Young Mr. Fitzgerald, son of Lord Fitzgerald, who is in this country now, was able to value land remarkably well, as I understood, aod I had a lay colleague, Mr. Doyle, who has since become a legal Commissioner, who was an exceedingly competent man to value land.

998. Do you say no legal Commissioners now interfere with the value of the land?

That is my belief: but before I state it point blank, I could not say that I have commuoicated with them, but I helieve not one of them now goes out to inspect, the Court husiness prevents it.

999. Have you had instructions from the Commissioners as to the mode in which your duty should be performed, delivered orally?

I am in the habit, in this way, of walking up to see Judge O'Hagao and Mr. Litton, because they were old compeers at the Bar with me, aod I often go in and see Mr. Vernon out of respect for him, and I do sometimes say what I tbink. If I had, for instance, a sub-registrar who was a very bad officer, I would walk up instead of writing a letter to them, aod say A. B., or C. D., does not work to my satisfaction, or does not draw up my orders properly; if you consider that official, that is tbe way I communicate witb them.

1000. Do you communicate as to the principles on which your judgment should be formed?

Never; I am very absolute in that. I have the presumption to think that I ought not to do tbat, and in that case which his Grace tbe Duke referred to, it was suggested by different newspapers that I ought to answer that requisition of Dr. Gould, by saying that it was for the Head Court more properly than for me; hut I thought that would be compromising my own independence, and I thought, humble as my position was, I should hold it with an independent hand.

The Witness is directed to witbdraw.

MR. THOMAS BALDWIN is called in; and Examined as follows:

1001. Marquess of *Salisbury.*] YOU, I think, are one of the Assistant Commissioners?

I am one of the Assistant Commissioners.

1002. I think you are one of those who were appointed first?

I am.

1003. With a tenure of seven years?

With a tenure of seven years.

1004. And you have been engaged in that duty for the last 18 months or two years, have you not?
Since October 1881.

1005. In the course of that duty you have had, of course, as your principal occupation, the function of determining the value of the land?
Yes.

1006. Can you put at all into words the principles that have guided you in the performance of that function, that is to say, in the valuing of the land. What did you consider to be the value of the land, and how did you get at it; speaking only, of course, for yourself?
Speaking for myself, I have been guided by two principles, and have used one to check the other. The first principle is this: I happened to have had experience of almost every large estate in Ireland, and I had for years educated myself, from personal inspection of farms on those estates, what the fair rent would be. The second principle I was guided by is, that I had large experience of the cropping and working of land in several of the counties of Ireland, and from the data thus acquired I was able to draw up for my own guidance certain rules.

1007. In what manner did you apply that knowledge which you thus possessed. How did you determine the relation of the net yield of the land to the rent which the landlord ought to receive?
In the first place, your Lordship and other members of the Committee are quite aware that the principles by which rent is determined, or ought to be determined, by a professional valuer is a matter that is pretty well known. I may mention the principles are laid down in a standard work.

1008. What is the deduction from gross produce which would be necessary for the purpose of arriving at a fair rent?
I think I had better say to you on that point that as there are 85 Sub-Commissioners (17 Sub-Commissioners with a lawyer and 4 laymen to each of these Sub-Commissions), that I might possibly ask you to excuse me from going into minute details; I merely state that to all professional valuers the subject is very well known. I, myself, devoted a great deal of my time to it for years.

1009. Was not that at a time when there was an open market for farms, and consequently you only had to determine what you could get a solvent tenant to give?
I think it will be found that a professional valuer, a man who really knows his business as a valuer of land, does not exactly take the full competitive value into consideration at all, but works out the equation for himself equitably.

1010. What does he deduct from the competitive value?
I do not think he takes the competitive value, except as an element in checking what he is doing.

1011. Marquess of *Abercorn.*] If you put so much value upon professional valuators, how is it the professional valuators who value for the landlords are so little regarded in the decisions, because they are very competent men?
I can only answer that question by saying, so far as I am personally concerned, I have not disregarded them, and I wish to point out at once an important point which ought to be paid more attention to than it is. When an Assistant Commissioner or a Sub-Commission goes after a professional valuer of recognised probity, and finds that that professional valuer, after he is tested in a sufficient number of cases, is a fair and reasonable man, and has worked out the same results as the Sub-Commission, I think the Sub-Commission ought to adopt his valuations; I have acted on that principle myself. I wish it to be distinctly understood that I speak entirely for myself.

1012. Marquess of *Salisbury.*] Allow me to ask you with reference to this question,

question, which I think you admit is one of difficulty, whether you received any instructions from the Head Commission?

None whatever; on the contrary, I, myself, at a meeting (which has been made public by Mr. Justice O'Hagan), where they called the 12 Assistant Commissioners together, but at which they got no instructions, put three questions to the Chief Commissioners, but got no answer.

1013. Do you mean that they were mute, or that they said they were unable to give you an answer?

I put the questions, and they said they thought it was better for them to express no opinion.

1014. Then at this meeting which, as you say, is already in evidence, you say there were no instructions on the subject of fair rent given to the Sub-Commissioners?

None whatever. I repeat that I asked three questions which I thought were most material, and those three questions were not answered.

1015. Then I am afraid that meeting was no great guidance to you.

It is rather an unpleasant thing for me to say; I left that meeting myself with a good deal of dissatisfaction. I thought it was a frightful thing to let us loose on the property, landlords and tenants, without instructions.

1016. There were yourself and 11 others who were sent away in the same ignorance of principles on which you were to act as you were?

That is so. I felt myself not only uncomfortable, dealing with other men's property, but I repeat, and I am sorry to have to say it, I felt rather uncomfortable, and I would add that if I had not before that meeting resigned an office that I held, I really would not have gone on with it.

1017. You felt the prospect before you was so full of embarrassment and difficulty?

I did.

1018. You think it would have been far more satisfactory if the Commissioners had laid down some rules for the guidance of the Sub-Commissioners?

I did think so, and I think so still.

1019. I suppose that was still more necessary in the case of other Sub-Commissioners who have not had the very same large experience that you have had in dealing with land?

I claim no special merit; many of them have had, doubtless, higher qualifications; it so happens that I knew a great deal about the country. My business as inspector of schools under the Government brought me into every county, and that far I had possibly an advantage.

1020. Did that experience of yours impress you deeply with the difficulty of the task?

It did.

1021. You say the decisions, in your judgment, have not been uniform?

I am afraid not.

1022. And that you think is a great public evil?

I think it is a great public evil to both sides; both to tenants and landlords.

1023. It will not produce that peace between the two classes which has been the great object of those who have dealt with this legislation, you think?

I should be very much afraid the effect of it would be this (I speak now of cases of which I have had actual knowledge), that the rulings of some Sub-Commissioners that followed myself, and the decisions of Sub-Commissioners whom I followed, have in some cases been so wanting in uniformity, that as soon as farmers, who are a knowing and intelligent class, come to see the unequal results, that it will lead to fresh agitation.

1024. Your

1024. Your view, as I understand it, is, that the farmers will think that they have a right in all cases to a reduction as low as the lowest that any Sub-Commission has given?

I think if there are two farmers having farms of the same quality, separated by a fence, and one Sub-Commission makes a difference of 5 *s.* an acre from another Sub-Commission (I will not say now which way, whether up or down), I say with one's knowledge of the world that it is not reasonable to expect that the farmer who pays the excess will be satisfied.

1025. Do you think, as a matter of fact, that there is that discontent and uneasiness about the farmers, and that there is among them any expectation or hope that the question will be re-opened?

I am quite clear on that point. I may mention to the Committee that now in going over the farms of the people it is not as it used to be. At first, they used to say, we hope you will do justice between us and the landlords. Many farmers have said that, and expressed themselves very fairly. Now they are beginning to ask whether they will get the benefit of the next Land Act.

1026. They are afraid to use this Land Act for fear of being exempt from the benefit of the next?

I think they expect further legislation.

1027. Marquess of *Abercorn.*] Is not the inequality of decisions a great bar to amicable decisions between tenants and landlords?

It is, most decidedly; but it has the other evil which I consider is a greater one.

1028. Marquess of *Salisbury.*] The evil of raising expectations, you mean?

Of raising expectations.

1029. You are inclined to impute this inconvenience to the want of sufficient guidance from above?

I do; I think we ought to have, if not instructions, some suggestions, in the form of a memorandum drawn up by persons who are conversant with the subject. Had that been issued at first a great deal of good would have been done. I speak here not in the interests of a class, or as taking any side at all; but my own opinion is that it ought to have been done at the outset, and it ought to be done before we go any further.

1030. Or there will be worse come of it, you think?

I do think so.

1031. Then at this meeting which was mentioned to us by, I think, all three of the Chief Commissioners, there could not have been very much done of any kind if they did not give you any instructions; did they listen to you?

Well, it was an extraordinary proceeding altogether. They did listen to us, and listened attentively to us; but, speaking for myself, I am bound to say I got no help.

1032. They said very little to you in return?

That is what I complain of, and I think they knew it at the time; I spoke to one of them after the meeting about it. I think it was extremely unfortunate, to say the least of it, that my three questions were not answered.

1033. What were those three questions?

The first was how we were to deal with the Healy Clause. I saw that with that clause the duty would be very difficult and most important, and the difficulty was realised when the case of Adams *v.* Dunseath cropped up. It so happened that I took a very active part in fixing the rent in that case. The second question I asked was this, how we were to deal with the Ulster custom, whether it was to be brought in, and how, as an element (or a factor rather, to speak more correctly) in the determination of the rent; and the third question was this (and I think a very important question, and one that ought still to be answered), whether it is meant that this Act should apply to all estates, and that we should be turned into a court of valuation, or whether any

class or classes of farms and estates would he excluded from the operation of the Act; whether, for instance, rents dating from a certain point, should he excluded; in other words, whether any farm would he excluded, and for what.

1034. In fact, you wanted to know whether the Act was an Act for exceptional cases or whether all the estates in Ireland were to be re-valued?
I did. I wanted from the outset to know (what I want to know still) whether this court is to be a court of valuation for all Ireland, or if it is to he what I looked upon it as, namely, an amicable court of arbitration to deal between landlord and tenant, and more especially my view was that it was merely to deal with what are called rack-rents.

1035. To deal with cases of abuse?
Yes, that was my own view, and I wanted it to he known one way or other, and I am still anxious, as far as I am personally concerned, that it should he made clear.

1036. Actually the working of the Act has taken another direction, and it has rather seemed to be a court for re-settling, mainly in a downward direction, all the rents in Ireland; is it not so?
Judging hy the process, I would say so. I have seen no announcement however, from the Chief Commissoners that would lead me to that conclusion.

1037. That is practically what has happened, is it not. Do you think the actually machinery is very well adapted for so large a task as that?
I do not. I think if that is the object, and that we are to be a court of valuation, all our operations should be suspended forthwith, and that the valuation should proceed on perfectly well-defined lines.

1038. Lord *Brabourne.*] I want to know whether or not your opinion is that the working of the Act has been such that persons who have rack-rented estates have come off with rather the hest of it, owing to there having heen an uniform reduction?
I do not like to go outside anything that has not occurred within my own personal knowledge. I can speak for myself, and say, that I certainly have had before my own mind a certain standard which I think enahled me to arrive at uniform results.

1039. You have been able to discern hetween rack-rented estates and estates which were not rack-rented?
I think so.

1040. And you have been ahle to carry your Suh-Commissioners with you?
I mean as to uniformity.

1041. Marquess of *Salisbury.*] I suppose your view would he that it is chiefly those landlords brought in hy the legislation known as the Encumhered Estates Act, whose actions it was necessary to restrain, and that the older properties in Ireland, speaking generally, did not require the action of the Statute?
That was my opinion. I see a hook of mine (Evidence hefore the Richmond Commission) before your Lordships, in which I have stated my view over and over again as the result of inquiries I conducted up to that time, and, practically, I entertain the same opinion still.

1042. It has practically worked thus, that an average reduction has heen made so that those who had raised their rents the highest have fared the best?
I think it is very likely that that has happened. I quite agree with the view of the Chief Commissioners, Mr. Justice O'Hagan and Mr. Vernon, that the numher of rack-rented cases that have cropped up is larger than was expected. I can explain part of it perhaps to the Committee. One of the last places I have heen to is Carlow. On two estates, Mr. Kavanagh's and Lord Courtoun's, we made large reductions, and I believe they were all justified by the Act. I know that they were on my uniform principle, hut in those cases the land had been held hy middlemen. As soon as Mr. Kavanagh came into possession of the

the property, and became the landlord, he did what most good landlords do, that is to say, he employed a valuer, who made a reduction. I do not think, considering all the circumstances, that the reduction was adequate. On Lord Courtoun's estate in the cases we dealt with, the lands had been held by middlemen, and the middlemen's rents were invariably far in excess of the old proprietors' rents.

1043. The middlemen's rents were in excess of what the tenant could reasonably pay?

They were. There is no doubt at all, that the middlemen, in many cases, charged rents which were simply unbearable; the tenants could not pay them.

1044. In some cases it happened that when the middlemen's property fell into the hands of the chief landlord, though reductions were made, they were not made to a sufficient extent?

Yes, that is my experience.

1045. Earl of *Pembroke and Montgomery.*] You spoke just now of having a standard of your own of rent. Would you explain to us what that standard is?

We commenced our work in county Antrim. I knew the county Antrim very well; and I was able to form a judgment as to what a fair rent in any particular district in Antrim would be upon that knowledge; what an average tenant in that particular district could pay.

1046. "Could pay," or was in the habit of paying, do you mean?

Well, could pay fairly. I can tell your Lordship, that in every county, rents were very very unequal. That has come out very strongly before us, and is still coming out. The other day we found in the county Louth three properties adjoining, and the difference between the rents on two of them meeting at a point was 60 per cent.

1047. By "could pay," I suppose you mean could pay with a fair amount of material prosperity?

Quite so.

1048. Marquess of *Salisbury.*] I think you have been accused by the newspapers of saying that a rent should be fixed in accordance with the capacity of the tenant; that was a misrepresentation, I believe, was it not?

It was entirely erroneous; there was not a word I said that would justify such a representation.

1049. Earl of *Pembroke and Montgomery.*] In fact, I suppose the opinion you have just given to me was that which gave rise to that misstatement, that is to say, the standard which you have just laid down, that rent ought to be fixed according to what the tenants in a certain district could pay?

I think it was some newspaper reporter who really did not understand the subject. He put upon it some interpretation of his own. It appears to me the Act would be perfectly useless unless that principle were laid down; we should take a particular district and not carry into that district our knowledge of rent in another district. For instance, in Louth, and certain other counties of Leinster, there is an enormous difference in rent, simply because the tenants in Louth are very much like English tenants; they have hereditary skill in parts of it; they have a good deal of capital, and they can afford to pay a higher rent than the tenants pay in backward districts. In fact, Louth is a very highly rented county. What I laid down, and still hold to be a true principle is, that in fixing a fair rent in Louth, you are to take what an average tenant could pay to live there decently; in that way you will protect the good farmer against being rack-rented on his high skill if a competent judge of the value of land, and on the other hand you will protect the landlord from the drone, and the idle and the worthless tenant.

1050. Marquess of *Abercorn.*] Going over a farm for the purpose of valuation, if you found a tenant in prosperous circumstances, and everything about him comfortable and prosperous, would you take that as an element *primâ facie* that the rent is not too high?

I would. But if you go over a farm, and, as I very often do, find a man remarkable for his skill or superior cultivation, I do hold that he ought not to be charged a higher rent than an average tenant in the district, and I am quite sure that no good landlord expects more.

1051. Lord *Tyrone.*] With regard to a tenant running out his holding, how would you arrive at what was a fair rent under those circumstances?

Of all the duties we have to discharge, that is the one I think that requires the largest amount of knowledge and power of observation. What I do with my knowledge of land, such as it is, is this, I endeavour to gauge what the natural power of production of the soil is, and I put a rent upon that, assuming it to be in a fair average condition, and not in the condition that it is. If I am called upon to perform the duty that is put upon us in the Act, of determining what the specified value of a tenancy is, I make out the specified value of the farm if it were in average condition, and I make a deduction from that to the amount that would be necessary to put the land back into a fair average condition.

1052. Then you do go into cases where the tenant has run out his holding?

Certainly. The very last farm I inspected was a case in point; that is, upon the property, I think of a member of the Committee.

1053. Viscount *Hutchinson.*] In Wexford?

No, in County Dublin.

1054. Lord *Tyrone.*] I understand then that you put a rent on it which must under the circumstances be more than the land is worth?

In its then condition, no doubt. I do not see how we can act otherwise if we are to do justice. In the case of a tenant upon a farm like that to which I refer, which is a splendid piece of ground, and cannot practically be exhausted (it is of such good quality as that), but which is reduced in condition to the extent of 200 *l.*, it appears to me that unless I give the landlord the rent which that farm would be worth to a tenant, assuming it be in a fair average condition, I am simply robbing him of so much income.

1055. Then how is a tenant possibly to pay a rent which is higher than the value of the land?

That is his misfortune. The probability is that he, and many like him, who have their land in that condition, will go to the wall. I do not think the intention of the Legislature was to protect men of that kind. A new point would arise if it could be shown that that loss of condition had arisen from any cause to which the landlord was accessory.

1056. You say you reduced the specified value?

We did.

1057. Would not that be reduced by natural causes, if you put the rent up higher than the value of the land as it was at the time you saw it?

I do not think so. I think the fair rent and the specified value are two totally different things.

1058. Viscount *Hutchinson.*] Entirely distinct?

Entirely distinct one from the other.

1059. They represent two distinct entities?

They represent two distinct entities. I know I keep them distinct in my own mind.

1060. One should have no effect upon the other?

One should have no effect upon the other.

1061. That was the spirit in which the Act was passed, you think?

That was the spirit in which the Act was passed, in my opinion.

1062. Lord *Tyrone.*] Are you speaking of the north, or generally?

I make no difference in fixing the rent in any part of Ireland. I adopt a uniform principle.

1063. Viscount

1063. Viscount *Hutchinson.*] Equally in Ulster, as in other parts?
Equally in Ulster.

1064. And this new tenant right, which is analogous to what exists in Ulster and other parts of Ireland, you treat as an entirely separate and distinct thing?
I treat it as an entirely separate and distinct thing. Allow me to add one word, because it is most important to the Act, I think, that the tenants everywhere should be inspired with confidence. I wish it to be distinctly understood, there is no man on the Commission, I hope, less desirous of infringing on what is called the Ulster tenant-right than I am, and if the Act or something had not come to protect the Ulster tenant, I think it is right to tell the Committee that my experience is that you would have a far more serious agitation from Ulster than from any other part of Ireland. I know I was greatly surprised when I found at first the state of public feeling in Ulster.

1065. Lord *Tyrone.*] With regard to the meeting you referred to, were any other questions asked besides those you asked?
My recollection is that no person raised any serious point except myself.

1066. Viscount *Hutchinson.*] Was no opinion given by other Sub-Commissioners as to the *modus operandi*?
I do not volunteer to go into that meeting, but Mr. Justice O'Hagan himself has made it public, and referred to an opinion expressed. The first gentleman who expressed his opinion said he would give half the gross produce to the landlord, and the next gentleman certainly made some remark which was also foolish, and the third, I think, was equally so, and it was my turn to speak fourth, and I rather began by asking questions.

1067. But did you hear of any further arithmetical propositions for the ground of fixing a fair rent than that of giving half the gross receipts to the landlord?
I did not.

1068. Marquess of *Salisbury.*] I think Mr. Justice O'Hagan or Mr. Litton told us that there was one statement that made them laugh very much?
It was Mr. Justice O'Hagan who referred to one of the remarks made at that meeting.

1069. Lord *Tyrone.*] You say that the fact of being turned into the country to fix the rent, without any direction being given, rather alarmed you; I suppose you felt yourself competent to do it, did not you, on the lines that you laid down?
I did think that I was fairly competent to do the work or I would not have accepted the office. If my questions had been answered at that meeting, or there had been any general principle laid down for the guidance of the Assistant Commissioners, of which I approved, I would certainly have discharged my duty, and never made a remark. I felt that somebody must take some action, and were it not for the way in which I was (I think very unwisely and very foolishly) abused at first, I would myself have laid down some maxims which would probably have been useful.

1070. Earl of *Pembroke and Montgomery.*] What sort of maxims would those be; would they be principles based upon a produce valuation?
They would include that. I would have developed my views. It so happened that I had just prepared for publication a new edition of a book of mine on Soils, with chapters on the valuation of land, which I deemed it prudent to suspend the publication of, and I intended as I went along to enunciate the principles I had worked out in that book as the result of many years of experience.

1071. Lord *Brabourne.*] Were you deterred by abuse from doing so?
Not exactly. Public feeling was so aroused that I did not see any indication of support from any quarter if I took strong line.

1072. Lord *Tyrone.*] With regard to my former question, what was there that particularly alarmed you in the fact of being turned into the country?

I thought it was a serious matter (and I still think so) to let loose upon the country, upon tenants and landlords, the whole of us without any instructions.

1073. Viscount *Hutchinson.*] You were saying just now, I think, to Lord Salisbury, that you considered it was absolutely necessary if the thing was to succeed at all, that there should be a suspension for a time of the operation of the Land Courts until some principles were laid down and some valuation was made; that is to say, if you are to act as courts of valuation?

All along I have indicated that I disapprove of the mode of procedure. It has been known to the Chief Commissioners; and I would repeat that some code of instructions ought to be laid down.

1074. Based upon what; where is the competition that Lord Salisbury put to you?

Without going that far, would it not occur to your Lordship that it would be well to answer my three questions in the form of a minute.

1075. I entirely agree with you, and would like to see them answered, but perhaps it is not quite so easy?

There may be difficulties; I am looking at it apart from political considerations; I deal with it as a practical man, and it is for you and others to consider what ought to be done.

1076. I thought you pointed to a re-valuation of the country in the same way as Griffith's valuation was made, but for fixing rents instead of for the purposes of taxation?

I say if we are to be a court of valuation that ought to be done, and done soon too.

1077. Lord *Brabourne.*] Putting all political questions aside; I suppose you think that for any court appointed for the first time to administer a new law it would be very desirable to have some definite principle of action laid down?

I do.

1078. Marquess of *Abercorn.*] In fixing the valuation how do you deal with the question of improvements, and also the tenant-right; do you take them both together?

I take them entirely separate. They are two things that must be considered each on its own merits. I had better explain to your Grace what my view on the first question is by stating what was done in the well known case, Adams *v.* Dunseath, in which I originally took part. We took the fair letting value of the land; after a very careful inspection of the farm, we assessed the improvements, and gave a deduction to the tenant for them, and thus arrived at the fair rent.

1079. Then do you deduct anything from the landlord for tenant right, in addition to the improvements?

Not for good-will, but we did protect his *bonâ fide* improvements.

1080. You take the improvements as the basis?

We took the improvements as the basis of our deductions and we interpreted the law, as fully and as fairly in the interest of the tenant as we could, consistent with the rights of the landlord.

1081. That is not the case with all of them, I believe. I believe some Sub-Commissions take the tenant right as well?

It appears to me, that if they go into the question of good-will I do not know where they will be landed. I would not feel myself justified in attempting to fix the rent of a farm, if I am to take so uncertain or unstable an element as good-will into consideration.

Ordered, That this Committee be adjourned to Monday next, at Twelve o'clock.

Die Lunæ, 7° Maii, 1883.

LORDS PRESENT:

Duke of NORFOLK.
Duke of MARLBOROUGH.
Marquess of SALISBURY.
Marquess of ABERCORN.
Earl of PEMBROKE AND MONTGOMERY.
Earl CAIRNS.
Lord TYRONE.
Lord CARYSFORT.
Lord KENRY.

THE EARL CAIRNS, IN THE CHAIR.

MR. THOMAS BALDWIN is again called in, and further Examined; as follows:

1082. *Chairman.*] I SUPPOSE in your extensive consideration of the value of land in Ireland under the Land Act, your attention has been a good deal called to the question of improvements?
It has, necessarily.

1083. I suppose I may take it that the dealing with improvements is one of the most difficult problems that the Commissioners and Sub-Commissioners have to solve?
The assessing of improvements on the land is one of the most difficult problems that we have to solve.

1084. Is it your opinion that it is very desirable, whatever is done now upon the subject of improvements, that there should be no controversy left open for a future time as to what the improvements are which are now dealt with?
I would say so, most decidedly.

1085. Are you satisfied that there is at present any record being made of the improvements which are dealt with, which will prevent controversy upon that subject at a future period?
As far as my own experience goes of the several Sub-Commissions in which I acted, I may say that there is no official record. Our own notes possibly would supply it. Each individual Commissioner, I have no doubt, does very much as I do; that is to say, takes very full notes in Court as to the improvements, assesses those upon the land, and annotates afterwards the discounting or assessing of those improvements into his notes. Beyond that there is no record.

1086. I suppose I may assume that 15 years hence the notes taken by Sub-Commissioners for their own guidance now, will not be any available record?
I am quite sure they will not; I do not suppose it is intended that they shall. I know, for my own part, at first I took the most elaborate notes, expecting that they would possibly be called for by the Court of Appeal. Latterly, though I take very full notes of improvements for my own information or guidance, to enable me to do the best I can, I do not any longer consider that any use is likely ever to be made of my notes; I have got no intimation to that effect.

1087. The Committee rather understood from one of the Commissioners that there might be a difficulty in having any formal record of the improvements which were proved to have been made by tenants; does it occur to you that there would be that difficulty?

I see no difficulty; certainly there is nothing impossible or intricate in it; it would involve a little extra labour on the part of the Assistant Commissioners, and might involve a little more clerical work in the Central Office.

1088. In what way does it occur to you that a record could be made of the improvements?

In the first place, on the face or on the back, as the case may be, of whatever instrument the Sub-Commission sign, fixing a fair rent at the present time, I think there ought to be a summary of the improvements which were taken into consideration, with their estimated value.

1089. With their estimated value?

With their estimated value.

1090. I suppose you mean their value, by way of reduction of the rent, that would otherwise be payable?

Precisely.

1091. Is there not some form supplied to the Sub-Commissioners of late; I mean since the commencement of the work with reference to the improvements which they are expected to fill up?

There is a form, but practically, I would say, it is of no value to anybody; I look upon it in that light, and I have stated so on the face of the document; I have no hesitation at all in saying that I look upon it as an absurdity, and a waste of time.

1092. You think the form that is supplied would not be of value to anyone?

Not the slightest to any human being.

1093. Have you been able yourself to fill up that form?

I look upon it as such a waste of time, that I very much leave it to my lay colleague, and have written across the document more than once that I so regard it as a waste of time.

1094. Do you say that you have written across the document more than once that you do not consider it of any value?

I have.

1095. What is the point in which you think the form of the return defective?

We are called upon to state the improvement taken into account. It is merely a statement of drains and fences, without specifying the quantity of the drains, the depth of the drains, the value of the drains, or the character of the drains; there is no information put on the document that is of any value.

1096. Supposing something of the kind you mentioned were stated, that there were so many perches of fencing, so many perches of drainage, proved and allowed for, would that indicate in any way at the end of 15 years what were the fences, and what were the drains that had been allowed for?

I have held throughout, and one colleague especially held with me, that in every case, when the tenant or the landlord comes into Court to set aside the existing rent, or an existing contract, that he, as a preliminary, ought to send a map of his farm or farms, as the case may be, and that that map should be attached to the judgment.

1097. That is what I was coming to. I want to ask you, is it possible in any investigation of this kind, as between one man and another, to arrive at any conclusion which will speak for itself hereafter, unless you have got something in the shape of a map or a plan by which you can apply the oral evidence to the land itself?

I think not. I have often asked myself this question. Suppose I go on for 15 years as an Assistant Commissioner, and come to deal with cases, when notes of the previous judgment are not available, what should I do. Without such evidence as I now refer to, I do not see how I could act.

1098. And again, without looking so far as 15 years, in cases which first have to be considered by Sub-Commissioners, then by the Court of Appeal and then

then by valuers outside of either Court, do you consider that it is possible without great loss of time that they can all be sure that they are talking about the same thing without something in the shape of a map?

Speaking for myself, I am quite sure that I should not know where I was.

1099. Have you ever known mistakes occur for want of a map in your experience?

In my own immediate experience there have been two or three cases where I was doubtful, and I know in one case I felt the doubt so strongly that I suggested to the landlord the difficulty I had. That was a case in the north.

1100. What was the difficulty you suggested?

The difficulty of ascertaining whether we had got the proper land. In point of fact, unless we are attended by the tenant or a person representing the tenant, and the landlord, or a person representing the landlord, we cannot be certain that we have the land. I am bound to add that, so far as I know, I cannot say that any deliberate attempt has been made at deception; possibly it may have been done in the one case to which I refer. In that particular case I was not satisfied, and I did tell the landlord so; we had no map, and we had a doubt as to the particular plot of land.

1101. Do you think that the valuers, who go upon the land with a view to giving a report to the Court of Appeal, can safely do it, without having a map to guide them?

I am quite sure, whatever we may do, that it is impossible for what is called a valuer to act at all without a map, and I may mention to the Committee that it appears to me there is a very broad distinction between the duty of an Assistant Commissioner and of a valuer, and I think, as far as I can see from evidence, it is not understood.

1102. But perhaps you will defer that for the moment; we will come to the valuer as a separate matter. I want to direct your attention at present merely to this: I understand you to say, that you think the valuers without a map cannot satisfactorily discharge the duty they have to perform?

I am quite sure of that.

1103. There are differences of opinion of course between the landlords' valuers and the tenants' valuers as to the value of a farm, but may it not well be that notwithstanding those differences there may be portions of a farm or fields of a farm in which there may be little or no difference between the two?

That very often happens.

1104. And is it possible to eliminate, as it were, those points on which they agree out of the controversy without a map?

Certainly not. Without a map you have no means of knowing what the valuer is referring to.

1105. So that if you had a map properly divided into fields, the parties might put their fingers on this field or that field and say, we have no real difference there, and it would not be necessary for anyone to go upon the ground or take evidence about it?

That is one of the points I was going to make a distinction upon; perhaps I had better do it now; that is, between the function of the Assistant Commissioner and the valuer. I myself, for instance, have occasionally done an enormous amount of work by insisting on the maps, and when I could (I have not been able to do it except in certain cases) by getting the landlord's valuer to mark on each field his estimate, and the tenant's valuer to do the same; and if these were men that I had previously found to be reliable, and they agreed, I have no hesitation at all in telling the Committee that I did not deem it necessary to inspect the field or fields in which they agreed.

1106. Do not you think it would have a very steadying effect upon the valua-

tion on both sides, if in the place of having lump valuations of a farm, they were, as the Scotch say, to condescend upon the value of each portion of it?
It would.

1107. You think it would have that effect?
I am sure it would.

1108. We have heard that there is a good deal of the Rundale system still prevailing in Ireland. Does it appear that where that system prevails there is a special need for a map?
I am satisfied it is utterly impossible that any man can deal with the Rundale system without maps, and I think there ought to be a Minute issued by the Chief Commissioners to the Assistant Commissioners on the subject of maps, requiring that they should be insisted upon in all cases, particularly where the Rundale system prevails. I brought a few illustrations, bearing upon that point, and shall be very glad to put them in if your Lordships will allow me. Here is a specimen of what had come before my sub-commission. (*The map is handed in.*)

1109. Is this a specimen of a farm held under Rundale?
These different little plots marked green, scattered up and down everywhere, represent the farm; the others are the lands of other farms coming in between.

1110. The portions coloured green are really all one farm?
One farm that we dealt with.

1111. Interspersed?
Interspersed.

1112. Without fences?
In some cases. In that particular case there are some fences, though very imperfect fences. In very many cases, and in some very good lands, in County Wexford and County Carlow, I found land held in Rundale, where three teoaots had three separate strips in two or three acres of land. I am supposed to know Ireland very well myself, but I had no idea until I came to work as an Assistant-Commissioner, of the extent to which the Rundale system prevails.

1113. In what county is the farm represented by the sketch you have handed in?
That is in County Carlow. Here are three maps (from one day's work) representing three separate farms (*Maps handed in*).

1114. Before we pass away from this, would it be possible for a valuer to go upon this land to make anything like a valuation without a map?
He must take the word of the tenant for the areas; and it is very unfortunate, but, as a rule, in cases of that kind, the landlords have very imperfect knowledge indeed of their property. In point of fact, I have been more than once over farms that came into Court, and the landlord did not know where his bits of land were; he had to trust very much to the tenants.

1115. What are these other cases to which you refer?
Those represent three cases that came before me in one day.

1116. Is this one held in Rundale too?
That is held in Rundale, too. Those coloured green, deep blue, and light blue, represent three farms, with lands interspersed, held by others.

1117. Perhaps the first one is a sufficient specimen. I suppose this does not carry the matter further?
No. That is from one day's work, and here is part of another day's work. They may give the Committee an idea of the difficulty that is experienced.

1118. Duke of *Marlborough.*] Are those plans taken from the Cadastral Survey?
These are maps enlarged from the Ordnance Survey. Whenever we can we get them.

1119. Are

1119. Are these taken from the Cadastral Survey of Ireland?
They are.

1120. *Chairman.*] Suppose the Sub-Commission go upon the ground in a case of this kind without a map, what do they do; how do they find out what their work is?
They have to rely very much upon the statement of the tenant. I am bound to say, notwithstanding all the agitation and excitement that has prevailed, as I have stated to the Committee already, I have proved no attempt to deceive. At the same time I say, as a matter of business, it is most objectionable, and to say the least of it, unsatisfactory.

1121. But even assuming that both sides desire to state the truth, and to show the Commissioners the proper places held in Rundale, is it possible, or is it easy, for the Sub-Commissioner to keep in his own mind the thing that he has to value, unless he has it put down in the shape of a map or plan?
I do not think the work of a valuer can possess anything approaching to accuracy without it.

1122. Lord *Tyrone.*] Is it not usual for the landlords to hand in maps?
They often do.

1123. But you would make it imperative upon the tenants to hand in maps?
On the person who originates the suit to upset the existing contract, I would throw the onus.

1124. Of handing in a map taken from the Ordnance Survey?
Yes.

1125. *Chairman.*] Passing from the subject of maps, would you tell the Committee what has been the actual practice of the Sub-Commissions, so far as you know, as to visiting lands?
We hear the evidence in the first place. We then visit the lands, as a rule; in a few cases, it has so happened in my experience, that to meet the public convenience we saw the lands first.

1126. When you say "we visit the lands," do you mean all three Sub-Commissioners?
While the old Sub-Commission of three lasted, the lay Commissioners always visited when they deemed it necessary.

1127. The non-legal Commissioners?
The non-legal Commissioners. The practice of the legal Commissioners varied. One legal assistant Commissioner that I acted with, in the entire time he was with me, did not deem it necessary to visit more than once. On the other hand, I have been associated with a legal Assistant Commissioner, who made it his practice to go with us.

1128. The practice has not been uniform then?
Not uniform. But now, as a rule, they do not visit at all.

1129. You mean since the non-legal members have been increased to four?
Yes.

1130. We understand that now the legal Commissioner sits with two lay Commissioners one half the week, and with the other two some other part of the week?
Precisely so; he really cannot be in the two places.

1131. There could not be continuous sittings if he were to visit?
No; therefore the rule now is that he does not visit at all.

1132. Do you know at all what was the original intention, in what I may call the theory of the proceedings; was it, or was it not, that all the Commissioners were to visit, if there was any dispute?

I take it from the diversity of practice that there cannot be any established theory or recognised principle, because at the outset I found one legal Commissioner visiting invariably, and the other not visiting at all. I think there was not any uniform principle in it.

1133. You think it was left to their own discretion?
I think it was, very much.

1134. Will you tell us, in the present state of things, with four non-legal Commissioners, what exactly is the function that the legal Commissioner discharges?
He sits in court, hears the evidence with us, and takes notes just as we do; if any point of law arises of course we defer to him.

1135. We understand that if any point of law arises it would be for him to decide it?
We would defer to him.

1136. Do points of law frequently arise?
Very seldom.

1137. What kinds of points of law arise?
Such as, for instance, questions about leases and contracts generally; the interpretation of the clauses dealing with improvements; the interpretation of the judgment in the Superior Court of Appeal in Adams *v.* Dunseath; but I think any Assistant Commissioner of intelligence now knows how to apply that himself, so far as I can see.

1138. Passing from the legal questions, I suppose after all the real question which is always constantly arising is the value of the land?
That is really the great work of the Sub-Commission.

1139. After the legal Commissioner has spent his days in taking his notes of the evidence, the two Commissioners go out on the land to value it?
They do, as a rule.

1140. Is not that pretty much a separate process altogether from the evidence?
It is. There are two objects in visiting the lands; I confine myself to my own view of the matter. I visit the lands first of all for the purpose of forming an estimate of the fair letting value, in which I am largely guided by the valuators produced on both sides, if I have confidence in them; that is to say, if on going over farms previously I have had reason to believe that they are trustworthy men, I thus lessen my labour and save the public time, and get through more business in the way that I have already indicated to the Committee. But the second thing I do, going on the land, and what I am sure all my lay colleagues do, is to assess, when necessary, the evidence as to improvements that are said to have been made, according to whether these improvements add to the letting value of the land at all. In many cases they do not. We ascertain whether the drains are of sufficient depth, or of such a character as to be really taken into account at all (and it so happens that in very many cases the drains stated to us in Court are what are called occasional drains, and that when the land comes to be really properly drained, these drains would be practically useless). That is a most important part of the work of the lay Assistant Commissioner on the land in all heavy cases.

1141. Those are two processes which are quite distinct; what I may call the value of the land, apart from the question of improvements and the value of improvements?
They are.

1142. Is that process the same, and gone through in the same way with regard to farms, subject to the Ulster tenant-right and those that are not subject to it?
I have never made any difference at all; I hold that the application of the Act imposes upon me the same duty in Ulster as out of Ulster. I speak now entirely

entirely for myself; I have made no difference. Of course I do not profess to be a lawyer, but as far as my intelligence enables me to read the Act of Parliament, it appears to me that the intention was that a fair rent should be established all over Ireland on the same basis, protecting the interest of the tenant in the way I indicated the other day.

1143. Then I suppose, according to your view, in the duties of the Commission, almost the whole of the important duties are discharged by the non-legal Sub-Commissioners?

I think, under the Sub-Commission of five, the real work is no doubt done, and was always done, by the lay Commissioners, that is, the determination of the rent. Now, as far as I can see, the legal Commissioner is reduced to the position of a cypher, unless a point of law turns up.

1144. You think he is reduced to the position of a cypher, unless there is a point of law to be determined?

I do.

1145. Then do you think it a convenient form of tribunal to decide so important a question as the question of the value of lands, a tribunal of two, because it virtually comes to that?

Originally, as you will find it in my evidence before the Richmond Commission, I thought that a Sub-Commission of three would be the most satisfactory.

1146. Were they all to be valuers?

At that time really I thought it might be a very desirable thing to have a lawyer, more especially if he had a knowledge of land, but I am bound to say that I have modified my opinion from experience, and I should now be very much disposed to throw the responsibility of each man's action upon himself, and to divide Ireland into so many districts, and as I have said, to throw the responsibility upon the individual man; in other words, to give each Assistant Commissioner his district, with an appeal to a strong Commission. If that Commission were over us, a Commission that we had confidence in to deal with appeals from our ruling, I think that naturally we would be very circumspect in what we would do. If there be any objection to one, then I think the best thing would be to have a Sub-Commission of two, going to all the small towns. Speaking for myself, I think it would be found that justice would be better done by putting individual responsibility on us. If there is any gentleman on the Sub-Commission (which I would be very sorry to think) who is not fully up to his work, he would soon be found out; if there is an inefficient man in a Sub-Commission of three or five, he will never be found out.

1147. If you have a Sub-Commission of two, and they disagree in their opinion, what is the solution?

Then I would have a third man to be called in, or make one chairman, with a casting vote, subject, of course, to appeal; if you gave the delegation to one man, if I am right in that view, I believe every case now in the Court could be disposed of before the end of this year.

1148. Are the present non-legal Sub-Commissioners in Ireland gentlemen who were conversant originally with the value of land, and accustomed to value it?

Your Lordship and the Committee will understand that is rather a delicate question, and I should prefer to answer it generally by saying that I have been associated with gentlemen, very capable and very high-minded, and who entered into the duty with a thorough desire to do what was right; but beyond that I prefer not to express an opinion.

1149. Do you think it is desirable that Sub-Commissioners, who are employed for some time in particular districts, and who have obtained a knowledge of the circumstances of the locality and country, should be changed and

removed from the district, and taken to another which they are not acquainted with?

I think not, unless they are superior men whom it may perhaps be desirable to put into a district where they may add strength. If you have a really capable and strong man, one who is determined to do what is right between the parties, and you are to continue the Sub-Commission as now constituted, then whenever you find such a man, and there is any weakness elsewhere, I think it is desirable to lift him and to put him in there; but beyond that, I think it is most detrimental to the working of the Act.

1150. I suppose that the settlements which are made from time to time between landlords and tenants out of Court, are necessarily very much influenced by what appears to be the character of the decisions made in that locality in Court?

They are very largely influenced by it.

1151. Therefore, when landlords and tenants are settling out of Court a number of cases, and a change is made in the constitution of the Sub-Commission, it deranges very much the principle on which the settlements are made?

It does.

1152. I should like to ask you this: suppose there is a change made in the constitution of a Sub-Commission, and the Sub-Commission in its new constitution should happen to reduce the rents to a greater degree than was previously done, is that not likely to give rise to dissatisfaction in the case of the batch of tenants who have had their rents already settled?

Yes, it is, most decidedly; and I am sorry to say that that has occurred in my own experience.

1153. They become a party of aggrieved tenants?

Either side becomes naturally aggrieved, whether landlord or tenant.

1154. The observation applies to one side as well as the other?

Yes, equally.

1155. If there is a change up or down in the system, those whose work has been done under the previous system feel themselves aggrieved?

No doubt.

1156. So that it has a disquieting effect upon the country, instead of contributing to the tranquillising of it?

It has, and it has certainly checked settlements out of court very much.

1157. Have you observed, so far as you can judge in practice, a want of uniformity in decisions produced by a change in the constitution of the Commission in the same locality?

I have seen some examples of that, and I think under existing circumstances it must be expected.

1158. And I think I understand you to say that there is a want of uniformity in the decisions as between different localities?

It is much more difficult to judge of the decisions of the Sub-Commissioners in any one district, but I think any person who knows the difficulty of the work, and the want of anything like a code of instructions for the guidance of the Sub-Commissioners, must be prepared for diversity, and even great diversity of results. I have found that in my own experience.

1159. That suggests what I was about to ask you. Does it occur to you that anything could be done towards producing uniformity in the shape of a code of instructions or a definition of principles to apply to the different Sub-Commissions?

I have throughout held that a code of instructions, or suggestions, ought to be issued. We have kept ourselves pretty independent of the Chief Commissioners, and if I might venture, through the Committee, or otherwise, to make a suggestion, which possibly has been made to them before, I would say that now, with

with the experience the Assistant Commissioners have gained, I think there ought to be a conference, and that the Chief Commissioners ought to select half-a-dozen of the most experienced of the Assistant Commissioners, and let them meet together and draft a code of instructions.

1160. You think a good deal might he done in that way towards securing uniformity?

I do.

1161. I suppose it is a reasonable way to look at the work which is now being done as practically a very large step towards the re-valuation of Ireland?

It appears to me that the only answer I can give to that question is, that while it has the appearance of being a re-valuation, it is not a re-valuation.

1162. So far as it goes, of course it is only partial; but in what way would you say it differs from what would be a re-valuation?

I think a re-valuation would be done by what may be called professional experts, who would go very carefully into the work. To put it plainly, it appears to me that with the best of the Assistant Commissioners the work is necessarily rough and ready.

1163. Perhaps I do not make my question as clear as I ought. I did not mean to suggest that the valuation was being made as a valuation ought to be made, but rather that what is being done (whether the intention or not) is practically becoming, as far as it goes, a re-valuation of the land in Ireland?

I am bound to answer that question in the affirmative, and to say that is the tendency.

1164. It was looking at it from that point of view that I wanted to ask you if you did not think it very important that there should, if possible, be some code of instructions as to the principle on which it was to be done?

I do think so.

1165. Do the Sub-Commissioners sit in as many places as they ought to do?

I think not. I think, though it may be very inconvenient to us, that we ought to sit wherever there is a petty sessions court.

1166. In every petty sessions town?

Yes. The loss of time, and the loss of money and of labour, incurred by farmers under the present system going to the large towns is very great indeed, and I would say that it ought not to continue; and, of course, there is a corresponding loss to the other side, that is to the landlord.

1167. Anything, I suppose, in the way of additional expense would fall on both sides?

It would.

1168. Can you give us any idea of the distance which the witnesses may have to come in the present arrangement of sittings?

They have to come from one end of a county to the other. My colleagues and I have always been very anxious to meet the convenience of the parties as far as we could, and whenever an application was made to us to sit in smaller towns we generally acceded.

1169. You have sat in the county Antrim, have you not?

I have.

1170. In how many places in the county Antrim has the Sub-Commission sat?

We have sat in Belfast, Larne, Ballymoney, Ballymena, Ballycastle, and Antrim.

1171. Nothing further north than Ballymoney?

Nothing further north than Ballymoney. We have had a large number of cases listed to us recently in Leinster. We were supposed to sit at Enniscorthy,

the capital town of the county Wexford, and a large number of cases came from the county Carlow; and we adjourned from there to Borris to meet the convenience of the parties.

1172. Who regulates the place you sit in; have the Sub-Commission any power to regulate it itself?

No, it is done in Dublin by the Chief Commission.

1173. Who arranges what farms are to go to each place of sitting. For instance, speaking of a part of the country I know something about, if there is a farm lying between Ballymoney and Larne, midway, who arranges that it is to go to Ballymoney, or who that it is to go to Larne?

That is arranged in the chief office. If my suggestion were adopted, and a district assigned to me, I think I ought to get the entire list of originating notices, and be free to dispose of my own time in dealing with them, and that I should clear out all the cases in one petty sessions district before going to another.

1174. But the result of the present system may be, as I understand it, that sitting at one large town you may have to travel 20 or 30 miles to inspect a farm, and then when you are sitting in another large town in an opposite direction, you may have to come back 20 or 30 miles, and inspect another farm, which may be just side by side the one you were inspecting before?

It has happened, in my experience, over and over again, to have travelled very long journeys.

1175. Is not that very inconvenient?

I think it is very inconvenient; practically, it is a great loss of the public time. It prevents the despatch of business. We get so many days to sit in a particular town to deal with the cases that are listed. There may be 60 cases; perhaps we only reach 40, the remaining 20 are held over until another sitting, and the farmers and landlords come in there at great inconvenience and loss of means, and in consequence of that arrangement I have found myself, actually, three times on three separate circuits at the same fence.

1176. Back again?

Back again. Thus, parts of three days have been lost in travelling, and three car fares paid.

1177. I suppose there is a good deal of business for valuators in Ireland at present?

A great deal. It has brought up an enormous crop of valuers.

1178. The supply, I suppose, is always equal to the demand?

The supply is enormously in excess; the supply is unlimited.

1179. As a profession, do you find that the valuers who answer to the demand are quite equal to their work?

There are some capable men on both sides, but I am bound to say, speaking broadly, that the majority are men to whose figures, after I have tested them, I am unable to pay any attention whatever, and I consider it to be a loss of time to be taking down their figures.

1180. They are not reliable, you think?

They are not reliable, and that does not apply to one side alone; it applies more to the tenant's side, because there are a greater number of men who take small fees than on the landlord's side; there are a few excessive gentlemen on the other side whom I never could follow. On the other hand, there is a very large number of valuers employed by the landlords who are of the greatest possible assistance, and a few also employed by the tenants who are very reliable indeed.

1181. We understood from some of the evidence that it was not at all uncommon in the case of tenants that they produced some other tenant as valuing for them; not professional valuers?

Some remarkable examples of that kind have come before us. Perhaps the Committee

Committee will pardon me for mentioning a case, of a very peculiar character which came before the Sub-Commission that I am on now, I actually killed that valuer out altogether, in this way: we were able to reduce his valuations to a formula, which was that he took Griffith's valuation of the land alone without the houses, and divided it by two; this discovery was announced one day, and he said he never paid the slightest attention to Griffith's valuation. Next day he came up giving evidence in a very large number of cases; in the first case we found that he was above Griffith's valuation for the first time; and it was said to him, in Court, that the formula had broken down. He said, "Quite so; I told you yesterday I never pay the slightest attention to Griffith's valuation."

1182. Did you let him know your formula?
We did; we announced the formula, and asked him for his notes, and he handed them up very civilly, and it was found there were three sets of figures, two erased and one standing, and the first set of figures corresponded to the original formula, half Griffith's valuation of the land. The second set of figures was considerably above that, and the third set of figures was the set he announced that morning in Court. We asked him how these three sets of figures came to be there, and he said that he changed the first set after a day or so, after thinking over it; and we asked him when he put in the third set, and he said, "this morning." How I killed him out was this: I do not know whether your Lordship will approve of it, but I thought it was the right thing to do, though it was a somewhat strong course to take; I said as long as I sat there, I will never take a note of any evidence he would give, and from that day to this he has never appeared.

1183. I am afraid I have not followed it correctly; his formula was to take Griffith's valuation, and divide it by two, as I understand you?
It was.

1184. Nothing more?
Nothing more.

1185. It was a very simple one; it scarcely deserved the name of formula?
We dignified it by the name of a formula, and he was rather complimented.

1186. Have you ever heard of any more elaborate formulas being adopted in the valuation of land under the Land Act, or formulas less simple than that?
There could be nothing more simple than that.

1187. Have you heard of anything less simple than that, more complicated?
I have heard of it, but I am inclined to think, before passing from that subject, I ought to say, the loss of time and loss of money to the farmers from the employment of a large number of the present valuers is so great, that I think, if this system is to continue, the evil ought to be grappled with in some way. Perhaps your Lordship might see your way to something. It is a question whether valuers should not be licensed by the Court, or whether the evil could not be met in some other way. I know there is great imposition on the farmers by these men, who go about telling them the lower they go the greater the difficulty they create in the way of the Assistant Commissioners in dealing with the rents.

1188. I suppose in the competition for employment, I will not say on one side more than the other, there is in human nature always a tendency to prove their acceptability by going as far as they possibly can in favour of the side they want to be retained by?
There is.

1189. Have you ever heard, as we are speaking of formulas, of attempts to arrive at the value of land by taking two or three elements and dealing with them something in the way that you have mentioned, Griffith's valuation, the existing rent, the landlord's valuation, and the tenant's valuation?
I have, but again, as far as I am concerned, the way that has come before me is rather a delicate question, but I may mention to the Committee this: I

happened to have an hour or two to spare one day in a certain town, and I went in and heard a Chairman of a county disposing of land cases.

1190. In what we should call a county court?
A county court; and I am bound to say I was able to reduce his decision to a formula, that is, he took the landlord's valuation, the tenant's valuation, Griffith's valuation, and the rent, and it would appear that he totted them up and divided by four.

1191. He took the four, and divided them?
It appeared so.

1192. Had it a good effect altogether?
I do not know as to that system of dealing with land; if they are right, we are wrong; and I think it ought either to be wholly given to the Sub-Commissions, or wholly given to the Chairmen of Counties.

1193. At all events, if that is the way in which it is dealt with, it ought to be kept secret, because otherwise it is a strong temptation to the landlord's and tenant's valuers to make their share in the formula as large and as small as possible.
It must work out very curiously, to say the least of it. If the landlord and tenant find out that that formula is being applied, of course the tenant will go very low, and the landlord will go very high.

1194. You do not know whether it has been in practice largely adopted in Ireland in these valuations before the Sub-Commission Courts?
There, again, I think it would be better for me to confine myself to stating my own experience.

1195. Your Sub-Commission has not adopted it yet?
Certainly not. I think I can say that any Assistant Commissioner with whom I have been associated has not done so. I certainly feel justified in saying that, to my knowledge, he has not practised it; but I am bound to add that I can see indications of its being adopted, and of rents being fixed by some arithmetical process of the kind.

1196. You see indications of its having been adopted?
I do, but beyond that I am sure the Committee will excuse me for not going.

1197. Taking all your sittings together, have you been more in the north than in other parts of Ireland; more in Ulster?
No, my experience was confined the first three circuits to Down and Antrim. Then I asked for a change, owing to having residence in Dublin, and I came then to the Sub-Commission on which I am now acting, and up to the present have had to do with Carlow, Kilkenny, Wicklow and Wexford.

1198. You asked for a change?
I asked for a change, and now we have the whole of Leinster.

1199. That is a very large circuit, is it not?
It is very large.

1200. What is the reason that it is so much larger than the others?
I think the cases are not so numerous, as far as I can see; that is to say, the number of applications.

1201. Have there been many appeals come under your notice from the circuits where you have been?
Really I have not looked into the statistics, but I have reason to think that from the Sub-Commission I was on in Leinster, that is Wicklow, Wexford, Kilkenny, and Carlow, the per-centage of appeals was rather less than from any other Commission; I was told so in the office.

1202. Are you aware of any statistics which show the per-centage of cases on appeal in which there has been any change made in the judicial rents fixed below?
No, I have not made any statistics at all.

1203. We

1203. We understand that in the view of some witnesses the cases are comparatively rare in which a change is made; is that your view?
Yes. We all consider that we are very well supported by the Chief Commission, and that our judgments are very well confirmed.

1204. The term, I think, used in the Act of Parliament, and the rules, with regard to appeals, is that the case is to be "re-heard"?
It is.

1205. In point of fact, is the case re-heard by the Commission?
I am quite sure it must be so, because we are never referred to, we are never asked for our notes, or for any observations or explanations; as a matter of fact, it is.

1206. Are the witnesses produced again before the Chief Commissioners?
The same witnesses; I happened to be subpœnaed to Belfast to give evidence in a case on Sir Richard Wallace's estate, which I examined for the Richmond Commission, and I happened there to hear the appeals in cases in which I took a part myself; it was the same old story, the same witnesses and the same thing gone over again.

1207. Have the court of appeal laid down any principle as to the ground on which they fix the judicial rent?
Not that I am aware of.

1208. Where they differ from the Sub-Commission, do they give any reason.
No, none that I am aware of. I watch their decisions with great interest and care. I can see no indication of a principle anywhere. It would appear to me that in the case of Adams *v.* Dunseath, Mr. Litton had some principle of his own; excepting that, I have seen no indication of a principle.

1209. Has the Court of Appeal possessed itself of any formula, such as we have been speaking of, that would enable them to arrive at the judicial rent?
I must not be misunderstood in any way; I have the greatest possible respect for the Court of Appeal, and, individually, for the members of it, but inasmuch as they do not visit the land, I take it that they must have a formula of some kind.

1210. As they do not visit the land?
As they do not visit the land.

1211. Have you an idea what the formula is?
I again beg of your Lordship not to press me. Of course, one may form an opinion, but it may be a very erroneous one; and from the position these gentlemen occupy, it would be very improper and impertinent, I may say on my part, to offer an opinion. Whatever the formula is, if there be one, I am quite sure that they have satisfied themselves about it. I can only conjecture what it would be, and the mere conjecture is a thing I would prefer not to state.

1212. But your conjecture, I suppose, is based upon some observation as to the arithmetical result of their decision?
I took the greatest possible interest in their rehearings in the north. I watched with the greatest interest and care what they were doing, and I did come in my own mind to a general notion at that time, but I really did not expect to be asked upon that point, and I would prefer not to say anything about it.

1213. In the judicial rents fixed, to which you referred just now; I do not speak of the Commissioners, but of the Sub-Commissioners, in which you thought there was the appearance of pursuing a certain formula, such as we spoke of, what part of the country did you refer to?
I saw that chiefly in the north; I think it was a very natural thing at first for gentlemen, perhaps who did not know the north, and who, when they heard the evidence, endeavoured to do justice between the parties by some such process.

1214. In addition to the information that we have in the returns as to fixing judicial rents, would it be possible to obtain a return as to each holding of what the landlord's and what the tenant's valuation had been?
Yes, there could be no difficulty whatever. It would involve some labour, but it could be furnished.

1215. Marquess of *Salisbury.*] Is it on record?
I rather think there is a form; each Sub-Commissioner has it. The filling up of certain forms is left very much to the legal Commissioner. He has time to go into clerical work, and there is, I believe, a form in which it is entered; if there is not now, there was such a form.

1216. In the return made to Parliament periodically, as you know, there is Griffith's valuation, the old rent, and the judicial rent; but there is not either the tenant's valuation, or the landlord's; that, you say, would appear from the Sub-Commissioners' notes?
I feel justified in saying that the Chairmen with whom I have recently acted very carefully look after all these statistics. A book is supplied for the purpose. Whether any copies of that book are sent up to the office I do not know, but I know it is there as a permanent record.

1217. Do you mean a form that ought to be filled up?
Yes, and as a matter of fact it is filled up.

1218. That is returned to the Court of Appeal before the hearing of a case on appeal, is it not?
I think it is not.

1219. So that the Court of Appeal has before it Griffith's valuation and the existing rent, and the judicial rent, and the landlord's valuation, and the tenant's valuation?
It has all that before it on the rehearing.

1220. Marquess of *Abercorn.*] Has it not, besides the court valuator's valuation, the valuator of the higher court?
It has.

1221. It has that beside?
It has that beside.

1222. *Chairman.*] I was talking about the Court valuers; how many are there for the Court of Appeal?
I think they have appointed three lately; possibly they have now seven or eight, but the precise number I do not know.

1223. But when there is an appeal, one of the valuers of the Court of Appeal goes beforehand and values the farm, is that so?
That is so.

1224. When he goes to the farm what materials has he? Of course he can judge of the absolute value, if I may use that expression, of the farm as it appears, but what materials has he to inform himself of the improvement?
None in the world that I can see, except the statement of the tenant.

1225. Of course, not on oath?
Not on oath. He hears no evidence, and unless he is a man of very great skill and local knowledge, I should think that his report is liable to be, to say the least of it, misleading to the Court of Appeal.

1226. Duke of *Marlborough.*] Is not he supplied with any of the facts which have come before the Sub-Commission?
He is not.

1227. *Chairman.*] Supposing a tenant desirous of speaking the truth, the tenant may not be the person who knows anything about it; it may be his predecessor or his father, or sombody else, may it not?
That is so.

1228. Do

1228. Do you think it is a satisfactory way of dealing with the re-hearing of a case to trust to a valuation made in that way. I speak more particularly with regard to the improvements?

Again, it is rather a delicate thing for me to express any opinion which may appear to find fault with the existing arrangements adopted by the superior court, yet I feel, as you put to me the question, I ought to state my own honest conviction, which is, that if the mode of procedure of that court be right, our proceedings are wrong; if our system be right, theirs is wrong.

1229. Practically, is the court of appeal, according to your observation, guided by the report of their valuers?

I see in the evidence given before your Lordships that that is stated. To use the words of Mr. Justice O'Hagan, I should say that they are largely influenced by it.

1230. Can you account for the rapidity with which the large number of cases are disposed of on appeal in any other way than by the report of the valuers being the test?

I cannot. They never visit the land; therefore, as to mere value, they must be guided entirely by the court valuer. Perhaps I had better add that my own view, based upon experience is, that if that system of court valuers is to prevail, the valuers ought to be men of the highest possible stamp, selected from the neighbourhood, and having all local knowledge. The same applies, I think, to the assistant Commissioners. I have always held (and have stated so on every occasion) that the assistant Commissioners and valuers should be men of the highest stamp that could be selected in any district, and men who would command confidence in that district. If you send a grazier from Connaught down to county Down, I really cannot see how he can do justice. On the other hand, if you send a tillage farmer from Armagh or Louth, whose experience is confined to tillage, into the great dairy or grazing lands of Ireland in the south and midland counties, I think it may take him years before he educates himself to make a fair estimate of the value of land.

1231. I should like to ask you this, with regard to the valuers; if, as you say, a man of great standing, experience, and ability, should be the person accepted by the court of appeal as a valuer, would it not be desirable that a valuer of that kind should be resorted to in the first instance by the court below?

Yes, I have held that view also, and expressed it that if there is to be a court valuer at all, if that system is to prevail; that is to say, that if anything is to be ruled by valuation, valuation should be the basis of the procedure.

1232. And should be arrived at as soon as possible?

And should be arrived at as soon as possible.

1233. I suppose I may take it that it cannot be a desirable process to raise the hopes of either the tenant or the landlord by a decision in favour of either one or the other upon one principle which is afterwards to be reversed upon the report of a valuer before the court of appeal?

It appears to me to be putting the cart before the horse.

1234. Could you give the Committee any idea as to what the cost of the administration of the Land Act is. Taking the case of a particular farm, what would you put the cost of settling the judicial rent at?

I should say that the cost on very small farms would be on an average about 5 *l.* (that is the actual money); on medium farms of average size, perhaps 10 *l.* In the case of large farms it is very difficult to fix it because there the parties bring counsel; sometimes they have two; that is, in exceptional cases.

1235. Would that cover the whole of the cost to the tenant?

The mere outlay out of pocket; it would not cover his loss of time. It would not cover the loss he incurs, especially in spring time, in neglecting his farm.

 1236. That

1236. That, of course, is only on the tenant's side?
Only on the tenant's side.

1237. Would the landlord's costs be more or less, or the same?
I should say, on the whole, taking one case with another, that they would be rather more. As a rule the landlords employ counsel; they used to employ counsel much more than they do now. I think the landlords are reducing expenses; they are learning wisdom. They see now that the employment of counsel, unless there is a point of law, does not influence the decision of the Sub-Commission.

1238. They have not found that counsel were the protection that they expected?
Speaking for myself, I really believe that all the statements made before the Sub-Commissions, to which I have belonged, from the beginning to this hour, have not influenced my judgment one sixpence, except where points of law have been raised.

1239. Marquess of *Abercorn.*] Is it not usual when a number of tenants go into court that they make an agreement with the tenant's solicitor that he should take them all, *en bloc*, for 1 *l.* each?
No doubt there has been an arrangement of that kind to pay so much per tenant, and the amount paid depends upon the competition. I heard just a day before leaving home that in one county in Ireland it is so keen that one solicitor has offered to do it at 1 *s.* per head.

1240. Then, of course, that would diminish the expenses you mentioned very much?
Very much; but I am quite sure that is exceptional, and that your Lordships may assume that it will not be, taking one case with another, less than 5 *l.* I know that in very many cases that have come before me it has been three and four times that sum.

1241. *Chairman.*] Has there been any calculation made up to any recent date as to what average reduction has been made over Ireland in the judicial rents that have been fixed?
I have seen no reliable calculation at all. I mean anything that I should rely upon; there is no official calculation.

1242. Have you made any calculation yourself in any county or district that you are acquainted with?
Yes; I think roughly it may be put at about 18 to 20 per cent.

1243. Over the whole of Ireland?
Over the whole of Ireland.

1244. Do you know, taking one period with another; periods of three months or six months; whether the rate of reduction has been uniform, or increasing or decreasing?
Speaking from my own experience I think it has been very constant indeed; and it must be so, I think, as long as a Sub-Commissioner or a Sub-Commission is guided by any fixed principle. A man of experience, I think, must always bring out the result the same.

1245. About the same?
About the same.

1246. From your great experience of land in Ireland, what effect has this reduction had upon the landlords of estates subject to charges?
I should be very much inclined to fear that many of the estates of what I call the margin men——

1247. Estates with margins, you mean?
Yes

1248. That is to say, having a charge on them with a free margin?
Yes; I am very much afraid they will suffer, and possibly some of them will go altogether.

1249. It

1249. It used to be a rule, I believe, in lending money on freehold land, that a lender was considered pretty safe if he did not go beyond two-thirds of the value, was he not?
He was.

1250. That would leave 33⅓ per cent. free to the landlord?
Yes, about that.

1251. And on that margin of 33⅓ per cent. would fall all the expenses of agency and taxation?
Yes.

1252. And the landlord, if it was charged up to the point that a prudent lender would lend to, would live upon the remainder?
That would be his margin.

1253. That would be his margin, and a reduction of 18 or 20 per cent. it might be supposed generally, after paying commission and taxation, would sweep that away?
It certainly would, in many cases. There are many small landlords, I am afraid, whose margins would not amount to that. I mean before the reduction.

1254. With family charges, which do not come by way of contract, I suppose it would not go beyond even the case of encumbrancers to two-thirds of the value?
That is so. I did not know whether your Lordship or the Committee would ask me any question bearing upon that, but from what I have seen of the hardship likely to be inflicted by the statute on landlords living on margins, who have done nothing wrong themselves, I cannot help thinking there ought to be some means of equalising matters. If it be necessary for the State to make the reduction, I do not see why that reduction should not be equalised or distributed over, not only the margin, but over the family charges.

1255. How would it be possible to do that consistently with principles of political economy?
I speak of course to your Lordship upon this point with great diffidence; but with my notions upon the subject, it does appear to me that if the State for its own purposes finds it necessary to reduce the margin of the landlord, and any member of his family has a charge upon the estate, that the reduction ought to be distributed.

1256. Would you apply the same rule to a mortgagee?
I am afraid the line must be drawn somewhere, and I should be merely disposed to throw out my own impression, imperfect as it is, and leave it to the consideration of your Lordships; but I feel that I ought to state to the Committee that cases of great hardship have come before me in discharge of the unpleasant duty imposed upon us by the statute, where landlords who did nothing, and perhaps even showed kindness to their tenants, find their margin suddenly reduced, and it occurred to me that something ought to be done to try and give them relief.

1257. Some people have proposed that the State should endeavour to enable those who have properties charged under those circumstances, to borrow their money upon easier terms?
I do not know whether my opinion would be worth much upon that point, but I would say that if the State finds it necessary, for its own purposes, to pass a law of this kind, it appears to me that the State ought not to hesitate to do justice on the other side, and to lend money to the landlords on the terms the State can borrow to pay off mortgages; it would not lose by the transaction.

1258. The security is a good one, you think?
The security is a good one.

1259. If the assumption is right, that it is the first charge on the property?
It is.

1260. It has been said that the Land Act of 1881 was really not meant to apply to any of the old and large and well-managed estates in Ireland, and that in point of fact, upon holdings on properties of that kind, rents have not been reduced; is that consistent with your observation?
I am afraid not; it is not in accordance with my observation. As your Lordship has put the question to me I may say that my notion in giving evidence before the Richmond Commission all through, was, that the law should merely go so far as to compel the bad landlord to do what the good landlord did, and speaking for myself, as my name has been freely mixed up with it, I certainly never had any other notion than that. If the law has gone further than that I can only say I regret it; I offer no further opinion as to what has been done.

1261. It was meant to deal with exceptional cases, you think?
That was certainly my view throughout, and it is my view still, of what ought to be done.

1262. You are acquainted with the property which is now Sir Richard Wallace's, in county Antrim?
I am; I know it very well.

1263. That was an old family property of Lord Hertford's, was it not?
It was.

1264. Have there been considerable reductions made in fixing judicial rents on that property?
There have not been many cases. I happened to hear the evidence on the appeal in one case; there certainly was a substantial reduction made in that case.

1265. When you say there have not been many cases, have you any idea how many?
There have not been many yet in court; I think the probability is that that case will bring a large number of other cases into court.

1266. Or else lead to a settlement on the footing of it?
On that basis either one or the other.

1267. That property in county Antrim was always considered, was it not, to be one of the best managed and most fairly let properties in Ireland?
It so happened from accidental circumstances that I had occasion to examine that property very often, and I am bound to say that I came to the conclusion that as compared with the estates that I thought ought to be dealt with by a court of this kind, it was a princely managed estate. I repeat now the very word I used before the Richmond Commission; it appeared to me to be managed really in a princely way, and I see no reason to change that opinion. There may be cases here and there (a thing which occurs on the best managed estate) where the rent would be a little out of keeping with the average rental, but beyond that it appeared to me to be managed in the most liberal manner.

1268. I believe that one test of the way in which an estate is managed, and the desire which tenants have to come on it, is the amount of tenant-right paid for farms?
That is certainly a test, as far as it goes.

1269. That property, I believe, was one in which tenant-right ranged as high as on any property in the north of Ireland, was it not?
Yes. I came after a careful examination of that estate to the conclusion that I still hold, viz., that the possessory interest of the tenant, that is what is commonly called the tenant-right, is fully as much as the landlord's fee-simple interest; that is, roughly speaking, they are about equal.

1270. That

1270. That could hardly have been, except upon the principle that the estate was a liberal and well-managed estate, could it?
I think it could not have occurred otherwise.

1271. Have there been many cases from Lord Downshire's estate come into Court?
During the time I was in county Down there was no case. I believe a few cases have come in recently, but as far as I can judge from the newspaper reports, they have not reduced the rents in those cases. I am now speaking from newspaper report. I have no official knowledge.

1272. We were told of three estates in the county Armagh, Lord Lurgan's, Lord Gosford's, and the Duke of Manchester's, on which there have been considerable reductions; do you know anything of them?
I do.

1273. We were told the reductions ranged from 30 to 33 per cent. on them?
Mr. Fitzgerald, one of the chairmen with whom I acted, the son of Lord Fitzgerald, I think dealt with those estates, but my recollection is that the reduction was not so large as that; that is, in the cases dealt with by him.

1274 The legal Sub-Commissioner, Mr. Foley, before whom a number of those cases came, told us the reductions were from 30 to 33 per cent. That may be an instance of what you spoke of just now, of difference in different Sub-Commissions, may it not?
I rather think I noticed that; but again I am speaking without any official knowledge; and I may mention one circumstance to your Lordships bearing upon parts of this property when the rents were fixed, hand-loom weaving was in existence on part of Lord Lurgan's estate. I can quite understand that a large reduction might be made in consequence of the change of the time and circumstances.

1275. There is no doubt that hand-loom weaving made a great deal of difference, but has it not been generally said that it was the capacity of the tenant to eke out his means by hand-loom weaving, which led to the high price of tenant-right and not to the increase of rent?
Wherever you have prosperity, I should say you would have a very high tenant-right, and not necessarily a high rent. I merely mention that as a possible explanation why, on a particular part of Lord Lurgan's estate, not on the whole of it, a larger reduction has been made than in other cases.

1276. Was Lord Leconfield's property under one of your Sub-Commissions?
No, but I know the property in county Clare very well.

1277. Do you know the amount of reductions upon it?
Except from the newspaper reports, I do not.

1278. Lord *Tyrone.*] I think I understood you to say to Lord Cairns that at the end of 15 years there would be a difficulty in assessing the improvements that the tenants had claimed for?
I did.

1279. Do you think that there is likely to be great difficulty arise at the end of the 15 years; that is to say, at the end of the judicial term?
I think that unless something is done, such as I have indicated in my evidence, that is to put on record now the improvements which have been assessed and taken into account by the Sub-Commission, it will be very difficult, if not impossible.

1280. You think the tenants may possibly put in those improvements again?
It is quite possible. I make no charge against the tenants. I think on the whole they have not attempted to deceive us. I repeat, that at the same time I think, as a mere matter of business, it ought to be put out of their power.

1281. Lord *Kenry.*] The man then in occupation might not know what the improvements had been, might he?

The man then in occupation might not know.

1282. Lord *Tyrone.*] You say the tenants have never attempted to deceive you; have you ever come across this class of case: you would know the dimensions of the farm, say 50 acres; the tenant would show you a piece of had land and say that was 30 acres, and show you a piece of good land and say that that was 20 acres; whereas the good land might be 30 acres and the bad land 20 acres?

Possibly, I did see indications of that kind in the cases already referred; but speaking for myself, I have got such a reputation (perhaps it is a very bad one), that I think they would not attempt it with me.

1283. Do you think such a thing as that, which would be a clever way of hoodwinking a Sub-Commissioner, might be tried on some of the Sub-Commissioners with success?

I would be very sorry to claim any superiority for myself, but I think it so happens from accident, that I have got the reputation of being rather determined, and if any tenant attempted that trick with me, or attempted to deceive me deliberately, I would coosider his conduct unreasonable, and decline to take any part in fixing the rent.

1284. You have had, no doubt, very great experience in this very class of work; do you think that other Sub-Commissioners would be able, from roughly looking at the land, to come to a conclusion in the same way that your Sub-Commission would do?

I should hope so; and that again is rather a delicate question for me to answer.

1285. You were speaking about the Rundale system just now; have you come across any other system which is a common system; that is the sheep stint of a mountain?

I have.

1286. Have you, as a rule, named the stint in cases where you fixed a fair rent?

No; personally, I am rather opposed to the view entertained on that point. I had better explain to your Lordships what has actually happened on property in which I think your Lordship yourself is interested in county Wicklow. It has been a very troublesome piece of work.

1287. I am not asking you anythiog personal; I happen to have cases of the sort I refer to, but I am merely asking you for information, what your opinion is as to stint, and as to whether the Sub-Commission should name the stint when they are fixing a judicial rent?

I think they should, aod I have expressed a very strong opinion upon the point.

1288. I would like to know your reasons why?

In the first place I hold that the landlord has it in his power to protect the weak against the strong. In the case of county Wicklow, we have found this state of things, that the strong man was actually using the grass of the poor man; the poor man was paying rent while the rich man was usiog the grass.

1289. Then do I understand you to say that you have fixed the sheep stint when you have fixed the judicial rent?

We have done so when it was possible.

1290. You have done so?

Yes; I had better explain to your Lordship that I took a very active part in these cases; we fixed the rent on the stint; I hold that it is utterly impossible for any man to fix the rent for a mountain, unless he does fix the stint, and unless he limits the number of sheep that is to run upon that mountain;

mountain; accordingly I began by endeavouring to get evidence in the case of stints, of what number of sheep the mountain could carry, and without that evidence I would decline to fix the rent.

1291. Then did you fix the number of sheep, what is called a collop; I suppose you are aware of the term?
Yes, I am.

1292. A collop of sheep upon so much rent, is that the way you arrive at it?
Yes, that is the way. The mountain carries a thousand sheep, we will say; we get that in evidence, and without which I say we cannot possibly proceed to fix the rent. Then we get further evidence as to the relative proportions in which the individual farmers who have the right to that commonage run their sheep upon it, and in proportion to the number of collops of sheep in that stint we fix the rent on the individual farmer.

1293. You fix the rent in proportion to the number of sheep?
Yes, the rent on the mountain.

1294. Would it not be rather better to fix the value of his agricultural holding first?
We have done both. A very peculiar case has occurred. Another Sub-Commission dealt with this very case by an algebraic formula; they preceded us; we came after them; I advised my colleagues (and after a good deal of consideration they adopted my view) that the only possible way of arriving at a fair rent was to put a rent upon the arable land, and a rent upon the mountain, the one independently of the other.

1295. Your rent upon the mountain would be guided by the number of sheep?
Entirely.

1296. And the number of sheep would be guided, I understood you to say, by the rent of the arable land?
No, I did not say that at all.

1297. But surely, has it not come before you that upon the old system which I suppose you are perpetuating, the collop of sheep put upon a mountain was assessed upon the number of pounds of rent paid for the agricultural holding?
I hold that the two things are independent of each other. One gentleman, a legal member of a Sub-Commission, found that a landlord in the county Wicklow put so much rent upon a farm, and gave so many sheep for every pound sterling of rent, and he reduced it actually to an algebraic formula; but I differed with him; I hold that that is a very unsound way of doing it, and that the only fair way of doing it is to put a fair rent on the arable land and a fair rent upon the mountain.

1298. I do not quite understand that, because I do not understand how you would arrive at the number of sheep that the tenants ought to put on the mountain?
In this way. In the case of Mr. Hugo's mountain, the mountain carried say 4,000 sheep (I use 4,000 sheep now for illustration), and in the letting of each particular farm, it was a fraction of that that he was entitled to put upon the mountain; and adopting my view, that rendered my work very easy and very intelligible.

1299. I will give you an imaginary case now: supposing a tenant paid 10 *l.* a year for his agricultural holding and the usage of that town land, so that he should put five sheep upon the mountain for every pound of rent. He pays 10 *l.*, and has the right to run 50 sheep upon the mountain; if that mountain was to carry a thousand sheep, and there were, we will imagine, only five other tenants on the mountain, you would say that in addition to his 50 sheep he would have a fair right to divide the right of grazing on the mountain; in other words the right of putting 150 sheep on?
No, he would according to the other view.

 1300. I understood

1300. I understood you to say that you valued the mountain?
Yes, wholly independent of the arable land.

1301. You must divide the mountain among the number of tenants, must you not?
Certainly.

1302. If there is room for a thousand sheep on the mountain, and only five tenants; if you divide the mountain among the number of tenants, you would give 200 sheep to each tenant, would you not?
Not at all; they have the privilege of running a fraction of a thousand; the mountain is capable of carrying a thousand or four thousand; I will give the rental, the fair rent of the entire, and I will distribute that among the tenants in proportion to their fraction.

1303. You take the fair rent of the entire mountain, and you distribute it among the tenants in proportion to the rent they pay?
Not at all, in proportion to the number of sheep they are entitled to run upon the mountain at the time we dealt with it.

1304. How do you arrive at the number of sheep that they are entitled to run upon the mountain?
That comes out, as I explained to your Lordship, in the case of Mr. Hugo's mountain; it is a fraction of the whole. In the case you put to me I work it out in this way; there are 1,000 sheep in your case, we will say; you are entitled to the fair rent for the 1,000 sheep, if the tenant did not put a single sheep upon it; one tenant has the right to put 50 sheep at a particular time, another has the right to put 30, another a right to put a 100, and so on.

1305. That right has been assessed, I believe, in general upon the rent he paid for his agricultural holding?
Not in general; in some cases it is a fraction of the total, and there the matter is very plain indeed, but in the case you are putting to me, it is not so plain, and what, at my suggestion was done at the time the case came before us was this: we took the full power of the mountain, we gave the landlord the fair rent of that, and we distributed that rent among the tenants, in proportion to the number of sheep that each was entitled to put upon the mountain at the time in consequence of their low land, and we declared that in future the rent of low land and mountain should run independently of each other.

1306. You are coming back to what I originally suggested. In consequence of the low land you say?
When the case came before us in that particular instance we had no other means of ascertaining the number of sheep the man was entitled to run upon the mountain, but in future I hold that a fair rent cannot be assessed unless you separate the mountain and the low land, and that is a point now before the Court of Appeal. The decisions of two Sub-Commissions are so widely different that the Chief Commissioners have taken a very long time indeed to consider what they are to do in the case.

1307. I have heard you say in answering the question as to this sheep stint, that the decisions of the Sub-Commissioners are very different in these cases; have you come across very great divergencies of opinion between different Sub-Commissions?
I have on that particular subject.

1308. Upon the value of land also?
That is rather a delicate question for me to answer with regard to my colleagues, but I think I can satisfy your Lordship by saying that it is to be expected that 85 gentlemen selected from different parts of the country, and with widely different experiences and antecedents, and without any instructions will differ in their views about the value of land, and in their action, inasmuch as there are no instructions to guide or assist them.

1309. Have

1309. Have you come across cases upon the same property where the same Sub-Commission has been out, and arrived at different conclusions as to the reduction that was to he given?
I really do not like to decline to answer any question. I am not a bit afraid to face any fair and reasonable difficulty.

1310. If you do not wish to answer it I will not press it?
I do not think I can go further than this. I have been associated with some gentlemen in the discharge of my duty with whom I have differed very widely.

1311. You suggested, in answer to the noble Chairman, that one Sub-Commissioner should be made to examine the land for the future as an improvement upon the present system?
One or two.

1312. Do you think that it would be an advantage to alter it in that respect?
I do; and I should have legally competent barristers following the lay Commissioners to hear all law points.

1313. Might not that make the decisions still more at variance than we have in evidence, they are sometimes, at present between different Sub-Commissions?
It might at first if you employ the present staff; but I think one great advantage of that suggestion, if I may be pardoned for making it, is that if there is a necessity for weeding out the Sub-Commissioners; that is to say, if there are gentlemen among them that are producing unequal results, I think you would get rid of them by my suggestion.

1314. We have in evidence from another Sub-Commissioner, in fact, a legal Sub-Commissioner, that he was in the habit of, I might call it, handicapping his four lay colleagues by putting one who was in favour of the rights of property with one who was rather the reverse, and letting them work together, so that he might get a mean between the two?
I should say, if that is so, it is most unfortunate.

1315. If that should be the case (of course we have it in evidence), would it not be extremely dangerous to leave the gentleman who was against the rights of property, by himself?
I think your Lordship will, on reflection, be very much disposed to agree with me, that if you provide a strong means of righting the wrong that he might do, by a properly constituted Court of Appeal, my suggestion is the only possible way of getting rid of a man who does not take the right view of the statute, and who is opposed to the rights of property.

1316. Marquess of *Salisbury.*] Do I infer then from what you say that you do not consider the present Court of Appeal properly constituted?
As I said before, I have the greatest respect individually for the members of the Court of Appeal, but I have been endeavouring to indicate this morning that I think its mode of procedure is not all that could be desired.

1317. It was rather to the constitution of the Court of Appeal that your observation just this moment pointed; do you think that that constitution is faulty?
Possibly if I expressed my opinion I would be misunderstood, and I should certainly regret, if I should say anything that would be disrespectful to the Superior Court; it is very far from my intention to do so; but it appears to me that it has not given satisfaction; perhaps I can convey what I want to convey to your Lordship in this way: it appears to me that it has failed to give satisfaction to either side.

1318. And that you think is due not only to its mode of procedure, but also to defects in its composition?
That, again, becomes a question that is rather a delicate matter for me to express an opinion upon; but I think it is a great misfortune that the Superior Court,

Court, for want of time and other circumstances, has, in no single instance, been able to visit the lands adjudicated upon, and thus been enabled to form an estimate of the work done for them by the Court valuers.

1319. But, without casting any blame upon any person, could you suggest an improvement of the Court of Appeal, I mean as to its structure, which would remove any of the evils to which you point?

I have repeatedly suggested, and I have no hesitation at all in putting it before your Lordships, that it appears to me that without any fresh legislation the Land Commission has power to issue a fresh delegation to, say three of the best of the Assistant Commissioners, or to three new men. If the public have not confidence in the present men, let them get, regardless of money, three superior men to form an intermediate Court between us and the Court above, with, as I say, a fresh delegation to go down and re-hear the cases.

1320. The point on which you lay stress is, that the Court, at all events of primary appeal, should have a local knowledge, derived from inspection?

Yes; and I say further, that no system of hearing appeals will be satisfactory where the men who are the final judges really do not go on the land themselves.

1321. You think that no system of valuers is an adequate substitute for that inspection?

You may get a very competent man to value land who knows nothing of the evidence and of local circumstances; the Commissioners who hear the evidence know nothing of the land, and between the two it appears to me almost impossible that you can count on getting a satisfactory result.

1322. And, as a matter of fact, satisfaction has not been given by the results hitherto arrived at?

I think I am not going too far in saying that satisfaction has not been given to either side.

1323. Lord *Tyrone.*] I think what you object to, as far as I can see, in the present procedure of the Court of Appeal, is the fact, that they do not proceed upon the same lines of evidence that the Sub-Commissioners proceed upon?

I do not say that the mode of procedure of the Sub-Commissioners is at all satisfactory; I think I have indicated some ways in which it ought to be improved, but I think it is necessary to make the procedure of the Court of First Instance sound, and then have the Court of Appeal proceeding on the same sound principle.

1324. I suppose you think that it would not do to have a single Sub-Commissioner, possibly of the sort I have referred to before, under the present system of the Court of Appeal?

I should certainly be the last to suggest anything of the kind.

1325. Have you any knowledge of the means that the legal Sub-Commissioners have of finding out whether their lay colleagues are carrying out the law as laid down in different cases, notably of course that of Adams *v.* Dunseath?

I do not see how the legal Commissioner can, by any possibility, say that we have done that.

1326. Therefore you consider that a decision may be given absolutely against the law without the legal Sub-Commissioner being able (from want of knowledge) to interfere?

I should certainly say, that if the non-legal Assistant Commissioners are not intelligent and do not know the law (and the law appears to me now to be very simple), and if they are not perfectly fair and determined to do justice according to their light and knowledge, I cannot for the life of me, looking at the practice as it is, see how the legal Commissioner can check their decisions.

1327. Therefore it appears that the legal Commissioner is now become really an ornamental appendage of the Court. I understand he was placed there to decide

decide questions of law, but if the practice which his lay colleagues now pursue of fixing the rent, and handing it up to him (as we understand they do), without letting him know the means by which they have arrived at that rent, what is the use of the legal Commissioner?

My answer to your question is, that I would really like to see the legal Commissioner put into a position in which he would decide points of law. I have been associated with very excellent legal gentlemen in the administration of the law. I should think that he is placed at present in a false position.

1328. Because he is really not informed of the mode by which his colleagues have arrived at their decision?

No, the only thing that happens is this: during the hearing of the evidence a man says he has made drains; we, as laymen know, and the legal Commissioner of course knows still better how the law applies, if those drains were made 25 or 21 years ago, they are excluded under that decision of Adams *v.* Dunseath. He can (as we all can) strike out any evidence given upon that point, because it is not to be considered; but when a lay Commissioner goes upon the land and says that the rent of a farm is to be 30 *l.*, how he has arrived at that is certainly not within the power of the legal Commissioner to check.

1329. I understand you to say that you think there is not any great difficulty for the lay Commissioners to read the law as it is at present?

I do not presume to know law, but it appears to me that the matter has now been so long before us that that is really so.

1330. Is not that very decision that I have referred to one of the most complicated decisions almost that ever was given for a layman to understand?

In the first place I should say that I see the necessity of doing what I think is in your Lordship's mind, of separating the legal from the lay element; as I have said before, I would propose to separate them altogether, but I do not see now any difficulty at all myself in understanding and seeing how to apply the decision of Adams *v.* Dunseath.

1331. You thoroughly understand it?

I think so. In understanding it, it is quite true that I have had the advantage of conversations and discussions over and over again with my legal colleagues, whose knowledge has been useful to me.

1332. I believe you have been on several different Commissions?

Yes; I am now with my fourth legal Assistant Commissioner.

1333. Have your legal colleagues laid down any system at all at any time upon which their lay colleagues ought to act in arriving at a fair rent?

Not at all.

1334. Have they ever obliged you to take evidence that you did not wish to take?

No; certainly not. I do not think they have the power. I hold myself perfectly independent of them.

1335. We have had in evidence at different times that there was a good deal of feeling shown by applause, or otherwise, in Courts in which you sat, by the audience or by the populace; against landlords or their agents giving evidence; have you ever noticed that?

Yes; and as a rule whenever they have done that, I think I may say now, looking back to all the cases on which that has occurred before us, that when any applause occurred it was from a mistaken notion.

1336. Have you ever refused to accept evidence that has been tendered in any particular case, by one side or the other?

The only thing I ever did in that way is what I have already mentioned this morning, the case of a valuer who appeared to me to be utterly unreliable; I said openly in the Court, that having proved that he was unreliable, I thought it was my duty to save the farmers paying money to such a man, and I said in

future I would not take a note of a single piece of evidence that he might give.

1337. With regard to drainage, how do you anticipate that the outlets of drains are to be kept open for the future; in the past I think the landlords generally interfered to see that the drains were kept clean; how do you expect under the Act, that those necessary things are to be done in the future?

The Commission is practically powerless in the matter.

1338. Do you think that the tenants are likely to keep the drains open when there is no power of forcing them to do so?

I should certainly hope that, with the spread of education among them, they will see that it will be to their own interest to do so.

1339. With the present amount of education that they possess, do you think that an Irish tenant is likely to lay out money to keep a drain open at the outlet to drain the land which is a good deal higher up than his own?

I think what your Lordship refers to is one of the blots in the Act. I think the Commission ought to have power to deal with matters of that kind; I am quite sure they ought to have power to put an end to the barbarism which the Rundale system perpetuates. There is a piece belonging to Mr. Mahony, of Dromore, in county Kerry, shown in this map (*handed in*), he has the red part himself, with tenants scattered up and down over the yellow, the dark blue, and the light blue; and whenever the property comes before the Sub-Commissioners, as in thousands of similar cases that come before them, I think the Commission ought to have power to square the property; I think the statute ought to give power to the Commission (I do not know whether we have the power) to declare that the conduct of the tenant would be unreasonable if he refused to have his holding squared; I think there ought to be power given to the Commission to put an end to such a system. I mention this in connection with your Lordship's suggestion about drainage.

1340. Duke of *Marlborough.*] Do you mean that the Commission should have power to re-arrange farms?

Probably there may be some question as to who is to do it; but really I think such a state of things as that ought to be put an end to, with a strong hand too, in the interest of landlords and tenants, and of society at large.

1341. Then it would seem that having commenced the process of interference, you are obliged to go to an extent little contemplated originally, does it not?

I see the force of your question, and am bound to answer it in this way: I, myself, before the Richmond Commission, suggested what I still think would have been the best thing, viz., a strong Commission for a temporary period to put right matters of this kind, to check rack-renting, and to bring about a healthy state of things, after which I did hope that something else would be done.

1342. Marquess of *Salisbury.*] And that something else was what?

Purchase.

1343. Lord *Tyrone.*] I believe you have constantly given evidence before other Sub-Commissions as to the value of property, have you not?

I was subpœnaed in two cases, once by Colonel King-Harman, and once by Sir Richard Wallace. It so happened that two of the farms on Colonel King-Harman's property I had inspected for the Richmond Commission. Bell's farm, on Sir Richard Wallace's property, I had not seen; and Judge O'Hagan excluded any general evidence; I was there to give the evidence with regard to that farm, but it was not taken.

1344. You formed rather a satisfactory opinion, did you not, of the management of Colonel King-Harman's estate?

I did form a very favourable opinion of it.

1345. In the evidence you gave before that Sub-Commission (I have seen a copy of your evidence in the paper), I think you said the old rents were fair rents.

I did

I did in these cases, and if your Lordship will permit me to add, what I did was really this: when I went down for the Richmond Commission to examine Colonel King-Harman's property, I did, as I often did in other cases; I was anxious to hear both sides, and asked to be brought into communication with the man who held the strongest views. I had Colonel King-Harman's view, and his agent's view, who was with me. I was told that the man who carried the flag at the Land League meetings was the man who held the strongest views in the opposite direction, and accordingly I called upon this farmer. He had got into possession recently; I made a careful examination of the farm, and this was one of the farms in the Court as to which I gave evidence; I was able to recall what I said to the tenant, which was this (after having inspected his farm), if there were only farms like this there never would be need for a Commission, or for a Land Act.

1346. Were you rather surprised then under those circumstances that the rents upon this property were reduced?

That, again, is rather a difficult question, but I really do not hesitate to answer your Lordship's question upon the point. In that particular case I did form a strong opinion that the action of the Sub-Commission was simply tinkering.

1347. Of the 14 cases that I refer to you were only examined, I think, in two on Colonel King-Harman's property?

That was all.

1348. We have had a good deal of evidence from you to-day, and before your evidence, upon the subject of those mathematical calculations that have been referred to; would it surprise you very much to find that a calculation appears to have been made taking the old rent and the tenant's valuation, and dividing them by two?

Certainly in that particular instance it would, because I would expect better things of that Sub-Commission. It is an extremely delicate position to be in, but I had better state frankly that I have from my own information all round worked calculations of that kind. I was anxious to know what was being done elsewhere, and it appeared to me very often that something like that did come out, therefore it does not come upon me now so much by surprise. At the same time, whilst I expressed the opinion that I thought they had tinkered in that particular case of Colonel King-Harman's, I believe that was a good Commission; the legal member of it is a very capable, fair-minded man, and Mr. Mowbray is a man who would have a strong regard, I should say, to the rights of property.

1349. Marquess of *Salisbury.*] Was that the legal Commissioner?

Mr. Crean was the legal member of the Commission, and Mr. Mowbray was one of the lay Commissioners; I would expect rather better results from them.

1350. Lord *Tyrone.*] In the particular 14 cases I referred to the old rent was 498 *l.* 8 *s.* 8 *d.*; the tenant's valuation was 375 *l.* 1 *s.* 10 *d.*; the mean worked out, dividing those two sets of figures by two, was 436 *l.* 15 *s.* 3 *d.*, and the judicial rent was 440 *l.* 19 *s.*; therefore there are only the two cases that you gave evidence in that vary at all from being the average between the tenant's valuation and the old rent. It would appear that that principle was worked out by what you describe as a very good Commission?

I merely expressed the view that I am surprised at that result with men like Messrs. Crean and Mowbray; I do not know the other gentleman, but I have long known the others, and formed a high opinion of them. As a matter of fact, except in the two cases I gave evidence upon, does that formula, as I may call it, apply?

1351. That formula applies in every other case except those two?

It is certainly rather startling.

1352. Marquess of *Salisbury.*] As I understand you, your experience in

examining into the cases which have taken place before other Sub-Commissions had rather prepared you for a result of that kind?

I find myself very much emharrassed; it is rather more cases before the Chief Commissioners that I had in my mind; a colleague of mine drew my attention to the fact at one time. We were all naturally much interested in knowing what the Chief Commissioner did, and an ingenious colleague of mine drew attention to the fact that he had made the discovery in some of the decisions of the Chief Commissioners.

1353. That they were working on an arithmetical formula?

I do not say that at all; I have no douht it was the result of accident.

1354. There was this remarkable coincidence of an arithmetical formula throughout their decisions, you think?

My colleague certainly put down a lot of figures, which hrought it out.

1355. Was that in many cases?

My recollection is that it was in a good many cases, hut I have no doubt in the world that it was the result of accident.

1356. Did this remarkable accident apply to one formula?

My recollection is that it would, but holding such a high opinion of the Chief Commissioners as I do, I am quite sure, and I wish to he very explicit on the point, that it was the result of accident; hut my recollection is that my colleague worked out a lot of figures, and took an enormous amount of trouhle.

1357. And that, by a remarkahle coincidence, hrought out the decisions of the Chief Commissioners.

Yes, hut I have no douht, as I have said hefore, that it was the result of accident. If you were to take the figures, possibly the same result would come out in some of my own cases.

1358. I have no doubt the Committee will he bound to agree with you that it was the result of accident, but have you noticed that accident occurring hefore any of the Sub-Commissioners?

My attention was drawn to something of the kind in some cases, hut I am hound to say that the figures were never put to me in the way that his Lordship has put them to me, and they certainly surprise me, to say the least of it.

1359. Without going further, you will admit that the coincidence is a remarkahle one, and prohably could not have taken place out of Ireland?

I agree with your Lordship that the coincidence is remarkable. If I had not formed such a high opinion of the Commissioners as I have formed, and helieved them to he incapahle of dealing with men's property upon any such principle, I might have regarded it in a different light.

1360. Do not you think the result you trace to some formula of that kind might have been the outcome of despair of finding any otber principle on which to decide?

I should not like to express an opinion upon that. I repeat that I have really so much respect for the Chief Commissioners personally, that I cannot entertain that view.

1361. Or do you think that it might have heen due to some sinister adviser, who, while concealing the mode hy which he arrived at his results, suggested to them this peculiar arrangement?

I should hope they would not really lend themselves to anything of the kind. It appears to me that it would be monstrous to suppose that any gentlemen entrusted with such responsihility as is imposed upon them hy the Land Act, would he capable of doing anything of that kind; and I must say that I, for one, would he very slow to entertain the idea.

1362. Fortune has played the Commissioners a very scurvy trick in making their decisions so very similar to the result of those arithmetical calculations, is that your view?

Well, I should not like to say anything further on the point.

1363. Lord

1363. Lord *Tyrone.*] In the question as to the sheep stint which I asked you, you referred to another form of arithmetical calculation?

That was totally different. Assuming the data to be correct, I think it would work out well enough, but it is an essential practical matter, to be dealt with by an algebraic process.

1364. It seems therefore that some of the Commissioners are fond of making use of calculations?

It does not follow that because one Sub-Commissioner has a taste for algebra that others have. In that particular case I am bound to say, in his absence, his formula resulted in favour of the landlord. I am sure he is incapable of taking any side, or doing anything except to perform his duty fairly, but he used to get the credit of rather leaning the other way. In that way the formula, if it were a formula, came out highly in favour of the landlord; too highly I think myself.

1365. You say you think it was not the intention of the Act to deal with the whole of Ireland with regard to the reduction of rent?

As a very humble private individual, that was my opinion. If anybody had said to me when the Act was being passed, that the whole of Ireland would be brought under the operation of it, I certainly should have been surprised.

1366. Were you at all surprised at the amount of the reductions?

Speaking from my own experience, as I explained to your Lordships on Friday, I myself was rather surprised with one thing, that is, that a greater number of cases of rack rents existed than I had any idea of. Taking county Down, where we commenced, on the small properties there, a few families made money in trade and business and bought estates, and there is no doubt they ran up the rents to a point that could not possibly be borne. On the other side of the boundary of Lord Downshire's property I found rents nearly cent. per cent. above his.

1367. My question referred more to the reduction upon low rented estates; did you anticipate that the reduction would be anything like as large upon what you have always looked upon as liberally, or I think your word was "princely," managed estates?

I was surprised when I saw the reduction on Sir Richard Wallace's estate in Bell's case.

1368. What is your opinion as to the reduction of rents where there is only a small per centage that ought to be taken off?

All through I have held that where it was a small per centage, the rent should be left alone, and I apply to all small nibbling reductions of rent the term "tinkering," and I do not know a better word to apply to it. I have myself always been opposed to what I call "tinkering" with rents.

1369. I suppose, of course, you are aware that there have been a great number of small reductions made, not only by the Sub-Commissioners, but by the Chief Commissioners?

I am bound to say that I think there has been with the Chief Commissioners, but if they have any formula or principle to guide them, I suppose they work it out, and stick to what comes out as the result of the application of that principle or formula.

1370. Do you think that if the rent has been paid for a great number of years, and the tenant is fairly prosperous, that that is a proof that it is a fair rent?

I would certainly say it is a proof as far as it goes.

1371. Such a rent as that you think ought not to be altered?

I think, if it has been there for a long time, and the tenant is not a man of exceptional skill, but an ordinary average tenant, and that he has prospered under that rent, it would certainly enter, it appears to me, into a schedule of

estates that ought to be excluded from the operation of the Act. That was my view, and that is my view.

1372. Have you found that an application by the landlords' counsel has been made to your Court often for the particulars of how you have arrived at your decisions; I might say for a history of the case?

I rather think not. I cannot recall to mind a single instance in which a landlord applied. I know there has been a great deal of grumbling on the part of landlords on the subject.

1373. Have you not had applications made to you by the landlords to state the principles?

I rather think there was an application once or twice in the north of Ireland from the tenants' side. I remember one particular instance where I was very violently attacked by a solicitor for the tenants, simply because I held, and I was the first to hold as an Assistant Commissioner, that I was not bound by the valuation for landlord or tenant, but that if I believed the landlords or tenants valuer had made a mistake, and that the fair rent, according to my judgment, should be higher or lower, as the case may be, I felt that I was not bound by that valuation, and the solicitor on that occasion made a very violent speech, and a violent attack upon myself, and asked for some principle to be laid down. At the time I did not see that any man, like myself, who was endeavouring to work on certain definite lines and principles, would get support from anybody; and it was not from want of moral courage that I declined to do so then, or at any other time. A noble Lord asked me, was I afraid to do what I believed to be right, and your Lordship will give me the opportunity of saying that I am not a bit afraid, and I will give an example. A shopkeeper in county Wexford bought a property, and the first thing that he did after purchasing was to employ two of the most intelligent farmers in the neighbourhood, and these gentlemen in every case reduced the rent; they got instructions to put on a fair rent. The tenants came before us, and as a preliminary, I asked if they had made any improvements since the rents were fixed, or anything that would require special consideration now, and they said not; and I stated there in open court that I, for one, would decline to interfere in that case. It appears to me that if that mode of dealing with tenants is not to be recognised by a Court of this kind, you have no end to it. That was rather a strong thing to do, and everybody knows, I think, the difficulty of facing the popular feeling in matters of the kind. I am very happy to be able to add to your Lordship that it created a most excellent effect in that neighbourhood.

1374. *Chairman.*] Is that in county Wexford?

That is in county Wexford. That occurred in New Ross.

1375. Lord *Tyrone.*] If it was put in evidence to you that a farm had been bought within a recent period by a tenant at the existing rent, would you think that that was sufficient proof that the rent was a fair one, especially if accompanied by a large price paid for tenant right?

I certainly would take it into consideration most carefully, but then the Act tells me that that alone is not a circumstance to be taken. I have my own view on that particular point, and a very strong view. If a code of instructions had been issued at first, I cannot help thinking that that is one of the cases that might in all fairness and equity have been left out. If a man with his eyes open bought a farm and paid a large sum of money for it, and did nothing to improve the land, I do not see, for the life of me, on what ground that rent is to be reduced, especially if, as has happened over and over again before us, the transaction took place in the midst of the recent agricultural depression. I can understand in the case of a farm bought, perhaps, 10 or 12 years ago, or a little further back than that, when there was really a hunger for land, that there may be some reason for reducing that rent now after the recent agricultural depression. I do not go further than to say that I can see that a Sub-Commission may be justified in reducing the rent under those circumstances, but if a farmer has bought in the midst of the agricultural depression, which has often occurred, I certainly, speaking for myself, do not see my way

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at all to letting that man into Court; and over and over again I have put this question to the tenants in such cases, "How can you come into Court now, and ask us to reduce your rent, when in 1879 or 1880, with your eyes open, you paid this large sum of money to get into possession of that farm"?

1376. You said that by the Act you are not allowed to take that into consideration, did you not?
By itself it is not to be the sole consideration.

1377. Is not that the first question that you take into consideration in the north, as against the landlord; the price of tenant right?
It is not. If the Chief Commissioners have conveyed what they mean in the evidence they have given before your Lordships, I am bound to say that I am not able to follow them. I remember stating in the town of Antrim at a very early stage of our proceedings on the first circuit, when we were asked to take the element of the goodwill, or tenant right, into consideration, I actually stated that I would not sit there for 24 hours and endeavour to fix rent, if I was to take into account so fluctuating an element as goodwill; therefore, speaking for myself, I say no. I take the land in Ulster, and from my experience I am able to say what a fair rent would be, that is from my experience of estates on which tenant right is fairly protected; that is the way I approached the fair rent in Ulster, deducting from it for improvements.

1378. You do not take the tenant right into consideration?
Except so far as the factor of improvements comes in.

1379. Except so far as it represents the improvements?
I speak now for myself, but it would appear to me that the Chief Commissioners take rather a different view, if I may judge from the evidence of one of them.

1380. Marquess of *Abercorn.*] You would consider, in fact, the improvements to be the basis of the tenant right?
The tenant right is made up of two elements; there is the element of improvement, and there is the goodwill. The goodwill appears to me to be a thing outside rent altogether; it depends largely upon his desire to get into possession of a particular holding; and is, in my judgment, altogether outside the determination of a fair rent. When I took part in the fixing of a fair rent in Ulster, I used all the knowledge, such as it was, and the experience that I had, and I arrived at a fair rent of the land as it stood, protecting the tenant's tenant-right as it is protected by every good landlord in Ulster; he does not want to encroach upon it, and from the fair rent thus arrived at, I made a deduction for improvements, and for nothing else.

1381. That is, you mean, that the rent should not be so large as to prevent a man getting a fair price for his tenant-right if he sold the farm?
That is a matter between him and his purchaser; that is a matter which, except so far as improvements go, ought not to be brought into the determination of a fair rent.

1382. *Chairman.*] Your view is, that rent should be fixed as if there were no tenant right in the first place, and that then it is a question for the man who wants to get the farm on that property to decide for himself what he will pay for the farm on which the rent has been so fixed?
No, there is a distinction, and I think a very important one, in arriving at a fair rent. I went over Sir Richard Wallace's estate, and I helped to educate myself on Sir Richard Wallace's estate as to what the fair rent should be; that is to say, I found what an average tenant was able to pay, and I found that over and above that, the tenant had a saleable commodity with which I had nothing to do. At the rent that a fair landlord in Ulster demanded, there was a large saleable interest, which amounted, in Sir Richard Wallace's estate, to just as much as the landlord's interest, but that was outside altogether the fair rent that Sir Richard Wallace or the average fair landlord demanded.

1383. That is what I rather intended to express; you determined on an estate of that kind what the fair rent is; that is to say, on the same principles that

you would determine a fair rent in a part of the country where there was no tenant right?

Precisely so.

1384. When you have done that, the tenant is then in possession of a saleable commodity, as you say, which he may get the most he can for?

Quite so.

1385. What he will get will depend upon the degree of competition there is to get farms upon that property, is not that so?

That is so.

1386. You think that that should not be allowed to rub against the rent, but that the rent should be fixed independently of that?

That appears to me to be self-evident; and if your Lordships will allow me to explain how it will work if that is not done, I should be glad to do so. I know farms on Sir Richard Wallace's estate, the rent of which is in that neighbourhood 25 *s.* a statute acre. I have been over them, and these farms, if put into the market, would sell for 25 *l.* or 30 *l.* an acre. Now, assuming the farm to fetch 30 *l.*, and that I were to take that element of tenant rights into consideration in fixing the rent, what would I do; I would not only deprive Sir Richard Wallace of any rent, but require him to pay over 5 *s.* an acre per annum to the tenant.

1387. It comes to this, does it not, that on such a property as we have been speaking of, the rent is not to be fixed by competition, or by competitive value, but by some other principle?

That is my view of it.

1388. If the rent was fixed in such a case as you put (I only put the question to you, I do not lay it down) by competition or a competitive value, of course that would put an end to tenant right?

That would kill out tenant right.

1389. Lord *Tyrone.*] We had in evidence from a Sub-Commissioner that another Sub-Commissioner proceeded on the same line as yourself, but at the same time always bore the tenant right in mind; do you understand that expression?

I do; it is rather a little too vague. It is not practical.

1390. *Chairman.*] There is a want of clearness of expression in that phrase, is there not?

There is, and I find that that want of clearness is a great misfortune in the administration of the Act in Ulster.

1391. Lord *Tyrone.*] I think you gave some evidence as to the tenant's valuers; I want particularly to know whether you find that they often put in ridiculous valuations?

Very many of them.

1392. Are they, as a rule, very untrustworthy?

A good many of them are, but a great many of them are most excellent men.

1393. Has it not often come before you that a tenant upon the same estate, who is going to appear in Court within a few hours, comes forward as another tenant's valuer?

That occurs every day.

1394. Do you think that such evidence as that can possibly be trustworthy?

What I do in all those cases is this; the first time any new valuer comes before me I take down his figures fully; the next day when I go over the farm, if I find that he is reliable, then I pay attention to him afterwards, but if I find that he is not reliable, I never do pay the slightest attention to him.

Ordered, That this Committee be adjourned to To-morrow, at Twelve o'clock.

Die Martis, 8° *Maii*, 1883.

LORDS PRESENT:

Marquess of SALISBURY.
Earl of PEMBROKE AND MONTGOMERY.
Lord TYRONE.
Lord CARYSFORT.

THE LORD TYRONE, IN THE CHAIR.

MR. THOMAS BALDWIN, is again called in; and further Examined, as follows:

1395. *Chairman.*] YOU answered some questions yesterday about the costs connected with the administration of the Land Act; I think your answers were more with regard to the cost to the farmers and landlords; have you ever calculated the cost of this Commission to the State?

I have looked in a general way into it. Mr. Gladstone made a statement to the House of Commons at the beginning of this year, which, interpreted in the light of changes made since, show that it may amount perhaps to a quarter of a million this year.

1396. Have you ever compared that cost with the cost of bringing out Griffith's valuation years ago?

Yes, it is enormously in excess of that; I should say that it is perhaps in round numbers about 20 times that. I mean for this year.

1397. You think it is 20 times the expense of bringing out Griffith's valuation?

I should say so.

1398. There is another question with regard to your former evidence that I wish to ask you. I think you said that putting a stint upon the mountain was for the advantage of the tenantry; is that so?

Decidedly for the advantage of weak tenants. I hold that it is one of the means by which a landlord can protect a weak tenant against a strong tenant, because, if there be no means of putting on a stint, then if the poor man from any cause runs down in capital, the rich man can utilise the mountain, and if he is permitted to utilise the mountain, I really think he ought to pay to the poor man, who has not perhaps, from accident or otherwise, the capital to stock the mountain.

1399. You said that you proposed to put a rent upon the mountain, and a rent upon the agricultural holding, did you not?

I did.

1400. If you did that would not the great proportion of the rents you have had to do with in Wicklow be materially raised?

In answering that question, as in answering every other question of your Lordships, I am bound to say that I should not trouble myself to consider that, one way or the other.

1401. I do not ask the question with a view of course of tying you down to any line, I ask it merely for information; if in your mode of procedure, of

which you have told us, you put a rent upon the agricultural holding, I suppose that you would have to value the agricultural holding, and put the fair rent on it?

Certainly.

1402. Then you would have to go to the mountain, and you would have to put a rent on according to the number of sheep that the tenant was permitted to put upon the mountain?

That would be my mode of procedure.

1403. Then surely the evidence that would be brought before you would be as to the value of grazing for each sheep, would it not?

Certainly.

1404. If you put the fair rent upon the agricultural holding, and put on the value for each sheep, it strikes me that the tenant would have to pay a good deal higher rent than that which he had to pay upon the original principle; is not that so?

It may or may not be so; all I can state is that, as a matter of fact, by my mode of arriving at the rent (which I hold is the only just one), it was in several cases under the result of the algebraic formula.

1405. I do not quite know what the formula was, but supposing that you value the agricultural holding and put a fair rent upon that, no doubt evidence would be brought before you as to the price paid, and the price that a tenant could get if he was permitted to take in graziers; no doubt you are aware that it varies on different mountains from 1 *s.* 6 *d.* to 2 *s.* 6 *d.*?

It varies very much.

1406. Taking it at 2 *s.*, which would be the mean between the two; if you were to put on 2 *s.* a sheep for the number of sheep, and put the rent on the agricultural holding, surely in most cases where sheep stint exists that would involve a material rise of rent, would it not?

Your Lordship will find that a man who is competent to assess the rent, say for a period of 15 years on mountain land, will not begin by calculating so many sheep at the sum that would be given for the yearly grazing, that is from year to year. No competent man ever does that; no good landlord ever expects it, because it really would leave no margin to the tenant who has to make an income out of his tenancy.

1407. If the tenant had not the sheep himself, he could get so much to fill it up, could not he; I do not, of course, anticipate that you would put the full value on that the tenant could receive?

No.

1408. But as the tenant has laid out no money in improvements upon the mountain, surely the landlord ought to get, I might say, whatever you considered a fair value for what he is letting the tenant use?

I quite adopt that view, and, as a matter of fact, even in my mode of dealing with the mountains of Wicklow, I did so. In the mountains of Wicklow we raised it substantially in one case. The algebraic formula resulted in a large increase in almost all cases.

1409. As to the position of landlords, I think you told Lord Cairns last night that in many cases the margins had been swept away under this Act?

From what I have heard, and from what landlords have told me, I should be very much inclined to fear that in some cases the margin would be swept away. I have no knowledge of the fact.

1410. Do you think that in fairness that the landlords have any right to ask for compensation, particularly those who have purchased under the Encumbered Estates Court Act?

It appears to me that, to say the least of it, they deserve sympathy, and the fullest consideration. I will give your Lordship a case (I could give you innumerable instances that have come before myself). A man who had been a labourer

labourer under a farmer in the county Kilkenny formed an attachment to the farmer's daughter, and the poor fellow found that there was no chance of getting her as his wife, and he resolved to go abroad. He went abroad for eight years, and, according to his own account, worked as hard as a man could work. He came home with some thousands of pounds in his pocket (this is comparatively recent); he bought in the Landed Estates Court; he married this girl, and settled down there, and I confess it appears to me, he deserves sympathy, to say the least of it. I would go further and say that my own view throughout was, and I have had no reason to change it, that when it became necessary to establish a Court (as it was necessary, a point upon which I now entertain stronger views than I ever held) for dealing with the rack rents, that when the Court was satisfied on hearing evidence, and after inspecting the land, that it was a case of rack-renting, the landlord may not deserve perhaps either sympathy or consideration with a view to compensation. On the other hand, as regards a landlord who bought in the Landed Estates Court, and who did not raise rents (as some of them did); a landlord of the good old type, who did nothing to harass or to oppress his tenants, it did appear to me, and it does still appear to me, that he is deserving of consideration, and I would say compensation, if the State for its own purpose finds it necessary to interfere with his income.

1411. You said yesterday, if I understood you rightly, that tenant-right should not be an element in arriving at a fair rent. We have always been led to understand that it is a very strong element in the North, and I think there is some evidence that we had from some of the Chief Commissioners which very much tends in that direction?

Tenant-right in Ulster, or out of Ulster, is made up of two factors, one is the improvements, including buildings. My contention is that for the improvements, including buildings, the tenant is entitled to a reduction; and that is the law, clearly, but that inasmuch as the goodwill, which forms the second factor of tenant-right, is variable and fluctuating, and is a matter really between one farmer and another, I, for my part, never have brought it into the determination of rent. I do not want in any way to bring myself in conflict with the Chief Commissioners. It would appear from the evidence that one of them has expressed a different view. Possibly his words are not correctly taken down.

1412. There was a statement that I made with regard to a decision of yours in the House of Lords some time ago, and as you happen to be before this Committee, I think it is only fair to give you an opportunity of explaining that statement, if you desire to do so. It was with regard to a case of a Mrs. Allen?

I remember the case very well, and I intended to write to your Lordship about it, and I am thankful to you for giving me an opportunity of mentioning it. The facts are these. Mrs. Allen happened to be the wife of a very old friend of mine. We heard the evidence; we went to the farm, and my lay colleague, Mr. Ross, was most anxious to effect a settlement, and as I was the personal friend of Mr. Allen, the husband, who was in a very delicate state of health, I three times declined to interfere in any settlement at all; so that instead of influencing Mrs. Allen, it was the very opposite, but as we were coming away, and as I was getting on the cart, Mrs. Allen spoke to myself on the road, and expressed a desire to be guided by what I would say or do in the matter. I asked her, was she anxious for a settlement. (The question was whether she was to take up a bit of land, and add it to her own home farm.) She said yes, and I called over the tenant there and then. It took less time than it has taken me to convey the facts to your Lordship. I said Mrs. Allen is most anxious to settle with you; what are your terms. He said, I will take the money I paid to the out-going tenant, and Mrs. Allen asked me what I advised, and I said I decline to give you any advice further than that this bit of land runs into your home farm so much, that it is worth more money to you than it is to anybody else, and on the strength of that suggestion, she closed with the tenant's offer, and paid down the money that he had paid

to the outgoing tenant. I believe that Mrs. Allen made a very good bargain for herself, and the tenant was satisfied.

1413. Earl of *Pembroke and Montgomery.*] I think you told us yesterday that you thought it would be well to suspend the proceedings of the Sub-Commissions for a time, until some proper principles were formulated and laid down for their guidance; would not that have this danger about it, that in that case it would be very likely that the new standard of rent laid down, after those new principles were formulated, would differ a good deal from the decisions that have taken place up to this time, and that that would cause a very great deal of discontent in the country?

What I did say on Friday was that if the Sub-Commissions are to be a Court of Valuation and not a mere Court of Arbitration, one thing appeared then to me to be clear, and still appears to me to be clear, namely, that our operations ought to be suspended.

1414. But ought not that to have been done some time earlier; do not you think it is too late to do that now with any safety?

I think you will see that the reason is the other way. There are now we will say in round numbers between 30,000 and 40,000 cases disposed of, and there are 50,000 in round numbers still to be disposed of; I cannot help thinking that if some principles were laid down (and if they are to be laid down at all, the sooner they are laid down the better), and it will be much more difficult to suspend operations after the 90,000 cases are disposed of than now; I think it would be better to begin now, if we are to begin at all, and I should add that I think the 30,000 people whose cases are dealt with, both landlords and tenants (especially the landlords), would say to themselves, "Well, let the past be past, and we will begin *de novo*," more especially if the State sees its way at all towards going into what I conceive to be the final solution of the difficulty, that is, the purchase.

1415. We shall come to that presently. I gathered from what you said yesterday that the standard of fair rent which is being set now is in many cases below what used to be looked upon as the standard of fair rent before the passing of the Act, in particular cases I mean?

I am not aware that I said that.

1416. No, you did not say that in so many words, but what you told us was, that the Act had hit the large and well-managed estates, equally with the smaller and more highly-rented ones, and that that was not a thing which beforehand you would have thought desirable. I think what you said comes to this or implies this, that in many cases rents have been fixed now which are below what was regarded before the passing of the Act as a fair standard of rent; is that so?

If I understand your Lordship's question correctly, I certainly did not mean to convey that rack-rented estates, and the older estates that have not been highly rented, have been reduced equally. What appears to me is, that possibly estates are being reached that were not intended originally to be reached.

1417. Quite so. And the reason why you have come to that conclusion, I suppose is, because you have seen on some of those estates, that rents have been lowered which previous to the passing of the Act you probably would not have considered it necessary to lower?

I would like to explain to the Committee that point very fully. My own position in connection with it is very peculiar; I think I was one of the first to suggest a Commission. My Commission would have been a Commission for grappling with rack rents. I am bound to say that in making that suggestion, it never occurred to me that the thing would have assumed the shape that it has assumed. That is all I wish to convey.

1418. Regarding that, do you think that that is to be attributed to any defects of the Act itself, or simply to the fact of no definite instructions having been given as to the way in which it was be worked?

In reality, I suppose it is the fault of both. I think no gentlemen were ever

ever entrusted with a more difficult duty than that of the Chief Commissioners, and I have no doubt in the world that they have done their duty to the best of their judgment and ability. The Act was a very difficult Act of Parliament, and I think it was a great misfortune that what was suggested at the commencement was not done; that is to say, that test cases were not dealt with.

1419. You mean by the Chief Commissioners?

I do; I think that proposition came from one side, and that is from what is called the advanced Irish party; I really think, that if their offer had been closed with, everybody would have seen what the Act meant.

1420. You think it is a great misfortune that the precedents, in fact, were set by the Sub-Commissions, instead of being set by the three men who are appointed by Parliament to administer a fair rent; do not you think that that was a misfortune?

I should hope my answer to that question will not appear in any way as a reflection on the Chief Commissioner. I should be very sorry if it did. They were placed in a difficult position. I said on Friday in the very first half hour of my examination, that, to put it mildly, I was startled at our having been left to go to the country without any instructions at all. Beyond that, I do not think I can go.

1421. If instructions had been given to the Sub-Commissioners, to this sort of effect, that the landlord was entitled to the fair letting value of his land, whilst the tenant was entitled to the fair value of his improvements, are you of opinion that that would have prevented that interference with old-established and moderate rents on well-managed estates, which you rather deplore?

If those two points were developed in a good minute of suggestions, if not instructions, I think the difficulty would have been met. I will add that my own opinion is, that the improving tenant has not always been adequately relieved, while the good landlord may have suffered too much.

1422. You think it is not too late to issue such instructions even now?

I do not.

1423. There is another point I wish to ask you about; is it not the fact that a good deal of the land in Ireland is what we should call in England very low let?

I expressed an opinion before the Richmond Commission, and I see no reason in the world to change it; what I stated before the Richmond Commission I repeat, namely, that if I wanted to invest a few thousand pounds in farming, merely looking at the per-centage I would make, I would select Ireland in preference to England.

1424. If you look at the fixing of rents from that point of view only, putting aside all political considerations, in those cases that I refer to, when they come before the Court, the rents ought to be raised, you think?

In those cases, most decidedly, which are under a fair rent.

1425. In that the general practice of the Sub-Commissions?

I can only say that I have myself taken part in cases in which we raised this rent, but I think they have been very few, and in justice to the Sub-Commissioners this much may be said, that I think the cases on the large estates that have come in yet are bad cases. I know the estates of several of the Members of this Committee. I have a pretty intimate knowledge of several parts of them, and I have been called upon to adjudicate in certain of those cases. I am in a position to tell your Lordships from actual experience that the cases on those estates that we disposed of by no means represent the average condition of the rents on those estates.

1426. Are you speaking with regard to some of those early cases that came before the Court of Appeal?

No, I am speaking of very recent cases.

1427. I was thinking of the matter more particularly with regard to those landlords who are, what you call, living upon a margin; it seems to me that it would have been a natural course upon their part when their rents were being

reduced in certain cases, to have attempted, as far as they could, to equalise the process by bringing before the Court their low rented farms with a view to having the rents of them raised; are you aware whether any attempt has been made to do that?

The only way I can answer your Lordship's question, so as to give the information of what my experience has enabled me to conclude upon that point, is this: If I were a landlord, and any number of my tenants in a particular district brought me into Court, I think I should be very much disposed to bring the whole lot into Court in that particular district. Then the probability is that that would lead to a few test cases. I am bound to say very frankly and candidly, that, in dealing with the administration of the Act, I have not seen much wisdom on the part of those who represent the landlords.

1428. If so much of the land of Ireland is let low, how do you account for the fact that the landlords have made so few attempts to have the rents raised, and that they have not brought their cases into Court with a view to raising the rents?

As regards the landlords of Ireland, although their backs are up, I would put it in this way: that taking 100 men of any class of life, and taking 100 of the class of the old Irish landlords, I am not afraid to say here what I believe, and what my experience has told me to be the truth, viz., that centesimally you will get as good men among those 100 landlords, and possibly a greater number, than in any other walk of life; and notwithstanding the violence and agitation, and all that has occurred, I think those gentlemen are still disposed to try and cultivate, if they can, good feelings with their tenants. There is another class of landlords already referred to who have brought discredit on landlordism.

1429. But when a Court of that sort, is instituted to fix fair rent, it is only human nature, and right and just, when the Court comes upon a man's estate and pulls down certain of the rents, that he should take advantage of that Court to have the other rents raised; and if the tribunal were all that it should be, I cannot help thinking that the landlords who hold that land, which is, as you say, low-rented, would, in much larger numbers, have brought cases before you?

I think there are two forces at work influencing landlords of the good old sort; one is, that they are men of education and position; they see that it is a fight between themselves on the one hand, men of education, and position, and experience, and men who have not the same education and the same advantages, and I do not think they want to press their position. The second force that appears to me to be at work is this, and I will state it frankly and openly, whatever be the cause, landlords, as a class, have not confidence in the administration of the Act.

1430. I think you were exposed at one time to a good deal of newspaper annoyance on the subject of an utterance that you were supposed to have made from the bench, to the effect, that proximity to a market or town had nothing to do with the value of a holding?

I remember something of that kind occurred; I will not name the paper, but a correspondent of a London newspaper did interpret some casual remark of mine in that way. Such a notion never entered my head. I never expressed any words that conveyed the construction put upon them, and no human being would suppose that I, with my experience of land and of varying rents, would express any opinion of the kind. I took no notice of it. The fact is, that the gentleman who attributed to me that view was inspecting farms with us at the very time when I put into practice the very opposite, and if he had been a man of intelligence (and I do not think he is), he would have seen the gross injustice and inaccuracy of what he reported.

1431. As a matter of fact, proximity to a market is very valuable, is it not?

Of course. I lived near Dublin, and paid for land that I had charge of there, 6 *l.* 10 *s.* the Irish acre, while down the country, I knew at the time land of the same class to be rented at under 2 *l.* an acre. No one believed I would say that proximity to a town had nothing to do with rent.

1432. Lord

1432. Lord *Carysfort.*] I think you said the cost of the present valuation would he about 20 times the cost tbat Griffith's valuation was?
I rather tbink that it is higber, but fearing that I should be misleading the Committee, I do not like to say more. If your Lordship looks at the estimate for the year, you will see what the cost of Griffith's valuation is at present; you can easily ascertain, if it is material, what it did cost.

1433. You do not know how much Griffith's valuation costs per acre, do you?
The proportion between the cost per acre and the cost of our Commission is very bigh; in the one case it is a very small thing indeed; in our case it is considerable.

1434. As regards the time that was taken in carrying out Griffith's valuation, do you know how long the whole valuation took?
What is called Griffith's valuation is the tenement valuation; the figures have been printed in a Return.

1435. I suppose the cost would he considerably less, and that took a shorter time, did it not, than the present valuation is likely to take?
Certainly. In explanation of that I may say that a great deal of our time is wasted, as I stated the other day, in hearing evidence which has no earthly connection with the suhject of fair rent at all. At first the personal attacks made on landlords, and sometimes made on tenants, was a painful thing to listen to, and perfectly useless.

1436. Then does it not seem to you tbat it would be a much more useful process, that if the valuation of the country was required, it should be carried out more on the system of Griffith's valuation than on the present system?
I think if a valuation had been made, with power to the valuers to carefully examine improvements, and if that valuation, or assessment, had been adopted as the basis of payments, giving a power of appeal to a properly-appointed Commission, it would have been one way of doing the thing, and doing it in a good business-like way.

1437. Do you think that would have given more general satisfaction to both tenants and landlords?
I do, except in one part of Ireland. The Suh-Commission in certain parts of Ireland, as now constituted, appears to me to be very popular, and for this reason, tbat I think it is looked upon as being amenable, more or less, to strong public opinion. I think that helps to give popularity to the Sub-Commission. I am very far from saying that it is amenable to public opinion. I know that, speaking for myself, I have not been influenced to tbe extent of one penny.

1438. It would at least have had the effect of making a more uniform valuation, and so giving greater satisfaction, would it not?
I think the plan on which your Lordship's question is based, if properly worked out, would really give great satisfaction to all rigbt-minded people.

1439. Earl of *Pembroke and Montgomery.*] How would you deal with the question of tenant's improvements if that were done?
I would give power to those gentlemen to call the landlord and tenant together on tbe farm, and have a sort of sitting on the farm itself. I am bound to say from my experience now of 18 months in going to the farms, that I am very much inclined to think that it would answer very well. I think there is a frightful loss of time in the Courts, and I think there are otber injurious effects of the present system which I for one would like to put an end to.

1440. Of course a valuation of that sort would be carried out in a systematic manner, block by block, instead of in tbe piecemeal way whicb causes so much expense and loss of time at the present moment, would it not?
Precisely; tbere are only two ways, it appears to me, of meeting tbe diffi-

culty; one is the way suggested by my Lord Carysfort, the other is in the way of a suggestion I made the other day, to let the Court sit in petty sessions and hear the evidence, and confine themselves merely to facts; allow no disquisitions, harangues, speeches, or attacks from one side or the other, but merely hear the statements bearing upon the question of improvements; then go and inspect the lands, and assess the value of those statements. By this mode the evidence as to improvements could be better sifted.

1441. *Chairman.*] You answered just now that you thought the Sub-Commissions were popular in certain parts, because people imagined that they would be influenced by public clamour, as I understood you?

That is the impression on my own mind, after a good deal of experience.

1442. Has the removal of certain Sub-Commissioners at different times encouraged that opinion?

Of course the answer I can give to that is mere conjecture, but with my own knowledge of the country and of the people, I should be very much disposed to say that if it were known or even believed that any gentleman had been removed because of pressure of that kind, it would be most injurious.

1443. With regard to the specified value, you gave us evidence about that the other day; but there is a statement of Judge O'Hagan's, which appears in the paper, which I should like to read to you, and ask whether you agree with it. I do not think it agrees with your previous evidence. The statement that I refer to is this: "With all respect to the Legislature, to put upon unfortunate Commissioners the task of estimating the value of land in places where land has not been in the habit of being set up to be sold, and where no experience can be brought to bear upon it, is about one of the most absurd tasks that was ever put upon men. It is something like one of the impossible tasks in the fairy tales which people are set to do, and which baffles their ingenuity." Do you agree that there is that difficulty?

In the first place again, having regard to Judge O'Hagan's position, that is a difficult question for me to answer, and I preface my answer by saying that I should be very sorry if it is in any way in opposition to Mr. Justice O'Hagan. There is not a member of the staff who entertains for him personally more respect than I do, but I am bound to say that I do not adopt that view. Some of the legal Assistant Commissioners, not conversant with the country or with the means of arriving at the specified value, have held that view, and have often actually dismissed cases before my own Sub-Commission, simply because they thought they had not sufficient evidence; I always protest against that; I say for myself that I see no difficulty at all in arriving at the specified value. I think that anyone who has knowledge and experience is fairly capable of arriving at the true value; that is to say, not what would be given by wild competition, but what the true value (to use one of the phrases of the Act of Parliament) is.

1444. If certain members of the Sub-Commissions, and also of the Chief Commission, hold the view that they cannot arrive at the fair value when the tenant right has existed previous to the passing of the Act, without having competition value to put upon it, in other words, without having the fact that the farms can be put up for sale, would not the same thing hold with regard to the fixing of the rent, now that the competition value seems to have come to an end?

I must frankly own that it appears to me that the man who is able to fix the fair rent, if he has the knowledge that is necessary to do that between man and man, has also, if he will take the trouble, the means of ascertaining the true value between man and man.

1445. But if he is not able to do the one, that is to say, if he is not able to judge of the fair value, he surely could hardly, without some line to guide him, fix the fair rent, could he?

Perhaps the question of rent has been before men's minds more than this question

question of specified value, and I can very well understand that many a man may roughly arrive at a fair rent without being able to arrive at the specified value, because it is a thing that has never been before his mind.

1446. But in this case Judge O'Hagan says, "The task of estimating the value of land in places where land has not been in the habit of being set up to be sold," that is to say, the task of fixing the value where they have no data to go by except experience, there is equally no data now with regard to fixing the fair rent, is there?

I answer frankly, and I say that, speaking for myself, and myself alone, I do not find a greater difficulty in determining the specified value than in determining the fair rent.

1447. That is speaking for yourself; but speaking for people who hold those opinions, do not you think that one ought to be as difficult as the other?

That which your Lordships quotes is not an official statement, and probably Judge O'Hagan is not correctly reported.

1448. Earl of *Pembroke and Montgomery.*] But the principle upon which you fix the fair rent as opposed to competition, and the principle upon which you fix the true specified value as opposed to competition value, consist practically of very nearly the same mental process, do they not?

In principle it is very much the same.

1449. *Chairman.*] Now we will pass to the question of reclamation of waste land; I think you have given some evidence with regard to that before, have you not?

It came in incidentally in the seven days' evidence which I gave before the Richmond Commission.

1450. Do you think the present arrangement for the reclamation of waste land under the Land Act is at all workable?

I think it is quite unworkable.

1451. Is there any proposition you can make by which the clause dealing with that question could be rendered workable?

I think the 31st section of the Act required to be modified. There are four sub-sections in the clause, and the first sub-section is that "The Treasury may authorise the Board of Works to advance from time to time, out of any moneys in their hands to companies, if they are satisfied with the security, such sums as the Treasury think expedient for the purpose of the reclamation or improvement of waste or uncultivated land or foreshores, drainage of land, or for building of labourers' dwellings, or any other works of agricultural improvement." Now, if the State is to lend money for the purchase of holdings by tenants from landlords, I do not see why the State should not lend three-fourths of the purchase-money to companies, if companies will come forward to purchase. I do not think that in the present state of Ireland you will get any company to come forward with the entire money required for purchasing these lands.

1452. Then you think that that section is at present entirely unworkable?

I happen to be in a position to tell your Lordships probably as much of that as most men, because at the time I gave evidence on the Richmond Commission my spare moments had been a good deal occupied with the consideration of a problem I put before myself, that is, how to relieve congestion. There are many people in Ireland who are very much interested in my view, including as far as I can see the whole of the Roman Catholic Bishops, and who would lend themselves willingly to any scheme of the kind, but we all see an insuperable obstacle in our way.

1453. What is that?

That clause that I have referred to.

1454. You would reclaim some of the mountaio and hog lands, I suppose, for the purpose of moving people from the coogested districts on to them?

I would; but if you are going into that I had better explaio the matter briefly to the Committee, because it is not understood at all. I held before the Richmond Commission, and I still hold, that all your attempts at settling Irelaod, or cutting out what I call the cancer of Irish disconteot must fail until you reach the root of the evil, and will be so uotil you do something to lift the thousands upoo thousaods of farmers whose holdings are so small that if they had them rent free they could not live upon them.

1455. Marquess of *Salisbury.*] By "lift," you meao "remove," I suppose?

Yes, remove, io some form or other. I hold that until that is done you will he periodically trouhled with agrarianism and violence. I anticipated in the evidence I theo gave everything that has sioce happened, I believe; at least the main features. All the trouhles that I aoticipated have come sioce I gave that evidence before the Richmond Commissioo, and with my present knowledge of Ireland I feel bound to take this opportuoity of saying to your Lordships that I helieve the next phase of Irish trouble will he far worse than the preseot, if something of that kind be not done.

1456. Have you at all framed in your own mind an idea of how that eod, not an easy one in itself, can be attained?

My suggestion has been that this Land Commission, or some other hody in whom the people would have reasonable confidence, should approacb the people and say to them, "You canoot be allowed to live in your present state of misery and wretchedoess; you are a thorn in the side of the State; we will relieve the State of that thorn, and do somethiog for you; we will speod a certain amount of money upon you; we will give you ao opportunity of emigrating or of migrating to other districts; that is, wherever there are improvable laods now io a very had state we will huy them and give them to you, and try ao experiment io placing you upon them, and see what you can do."

1457. At what figure should you place the oumber of acres oo which a man could, in your judgioeot, live without being a thorn io the side of the State?

I would make it 20 acres. Io the County Armagh the average size of the holdings at the present moment is under 20 acres.

1458. Then, as you expressed it, you would "lift" every one who had less than 20 acres?

That is not necessary; thousaods upon thousands of teoants wbo hold 20 acres are well off.

1459. Then of those some you would emigrate aod others you would find larger holdings for?

I would find larger holdiogs, and it so happeos, as I conceive, that the land is available. I wish at the outset to say that I am not in the slightest degree opposed to emigration if you cao carry it out humanely io whole families, then you will remove the thorn, but if you do not remove the thoro I believe that the sore will come, and come quickly agaio, and that what you are doing now, to speak plainly to your Lordships, is tinkering, and does not reach this evil at all.

1460. *Chairman.*] Do you meao that the present form of emigration is tinkering, or do you meao that the present form of the Land Act is tinkering?

I think it is a great deal of both. If the Land Act confined itself to grappling with rack-rents, I would be ooe of the most ardent supporters of it. My entire sympathies are with that part of the Act which grapples with rack-rents, and would be if it stopped there, but, io your way of dealing witb Ireland I confess (though it is a very unpleasant thing for me to say) I see really no finality.

1461. Marquess of *Salisbury.*] Is it of much use stopping the rack-renter unless you can stop the rack-lender at the same time; is the tenant in any better

better condition if he is up to his ears in loan than he would be if he were up to his ears in a hopeless rent?

I would implore your Lordship to look at it in this way. In the first place if you remove him out of his present frightful condition, and put him into a position in which he can live fairly, it does not follow that he would get a load of debt about him again.

1462. No, but if you give him free sale he will to a certainty, will he not, because he will have something to pledge?

In the view I take of the whole situation, I confess to your Lordship that from your point of view, as a statesman, I should be disposed to think that the most important clause of the Act is the free sale clause.

1463. The most advantageous, do you mean?

I mean as helping to remove that thorn out of the side of the State.

1464. You think the man will sell, and with the money will go?

I think the man will sell, and the man will go.

1465. And that the money he gets will go with him?

As a rule. In many cases he would take it to the larger tract of the improvable land to which I referred.

1466. *Chairman*] What arrangement is there under the Act by which you can prevent the perpetuation of those small holdings?

There is none, and I say, and say it fearlessly, that that is a great blot on the Act, and that those who are now carrying out the emigration clauses of the Act are, I believe, if nothing be done to check their work, simply digging fresh graves for law and order in Ireland.

1467. That is to say, that the men who are emigrating now leave their small holdings behind them, which, instead of being amalgamated into other holdings near, are occupied by other small tenants?

I have seen that myself.

1468. And there is no great likelihood, is there, that farms will increase in size in the West of Ireland unless some arrangement is made to almost force the people to occupy larger holdings?

There is no provision in the Act for it, and as a matter of fact, whilst I believe there is a number of benevolent gentlemen who have formed themselves into a committee for promoting emigration, I am very much inclined to fear from one cause and another, including a want of power, that they are not effectually removing the thorn. Some of them have been engaged at emigration since the famine of '48, and by taking away the best of the young, they have deteriorated the people.

1469. As regards your scheme of migration, would you propose that the State should not only reclaim the land, or partially reclaim the land, I suppose, but that it should build houses upon it?

My view is this, that I should like to see it done independently of the State.

1470. By a company?

By a company, and if that clause could be amended, I think I see my way to getting up a very large company, at all events, for trying an experiment, and showing you English statesmen whether the thing is practicable or not.

1471. Do you think that there is anything in the present position of landlord and tenant in Ireland to induce a company to lay out large sums of money for becoming landlords in Ireland?

I can answer that question for your Lordship, and I am very glad that you have given me the opportunity of doing so. If I were possessed of 40,000 *l.* or 50,000 *l.*, I have not known any time in my experience in Ireland when it would be so prudent for me, as a man of business, to invest it in land, of course taking care how I should invest it.

1472. You qualify it by that paragraph at the end?

I do.

1473. Would you invest it in land in the hands of tenants or in land that was to be occupied in your own possession?

There are estates in Ireland at present that I know most intimately, which if purchased by a prudent man to-morrow, and a large number of the people "lifted," as I call it (that is transferred to the improvable part of the estate in that way, making future tenants of them on equitable terms), he would find the purchase a very good one.

1474. Do you think it is so easy to induce the tenants of Ireland to move from one place to another?

I possibly have more knowledge of them than most men, and with this knowledge I say, that if they are approached in the proper way I think they could be both lifted and managed.

1475. How does that last piece of evidence of yours agree with the evidence which you gave just now as to the fact that you think the state of Ireland, as it has been during the last three years, is, I might almost say, a joke to what it will be in the future, if an alteration is not made in the West?

One applies to the action of the State in regard to the country generally, the other refers to what may be done by a private individual.

1476. But you say that you would be prepared at this moment with Ireland, in the state that it is, to lay out large sums of money in the purchase of land?

I have taken enormous trouble to sound people of all kinds upon this subject, statesmen and others, and I confess that I see no indication at all that the voice of people who know Ireland, and the Irish people, and who are friendly alike to the people and the State, is likely to be listened to. That makes me apprehensive as to the future; and I wish to draw a distinction between what I propose to do by way of experiment, to show what can be done, and what is likely to be done by the State, on a sufficiently large scale to cut out the cancer of Irish discontent.

1477. I cannot understand how you say you would be prepared to lay out a large sum of money if you have such serious anticipations for the future?

I make the distinction, which appears to me to be very plain, that a private individual may now prudently invest in land, but that the future of the peace of society will depend on the action of Parliament; if you removed this thorn you would give a new direction to the thoughts of those unfortunate people.

1478. "If," you say?

The probability is that I shall take myself a line of action in connection with this subject, and then be in a position to develop my views. I think at present, perhaps, I had better not; I may be misunderstood, but I think something ought to be done on a large scale.

1479. Earl of *Pembroke and Montgomery.*] I have read all your evidence before the different Commissions on the subject of migration, and I think I understood your proposal, and it seemed to me, as far as I could judge, to be at that time a feasible one; but I do not in the least understand, and I should like you very much to tell us, how you propose to get over the difficulties that are put in your way with regard to migration by the Tenure Clauses of the Act of 1881?

I say now, as I said before the Richmond Commission, with regard to the Act of 1870, that for the purpose of doing the work of the State, and pulling this thorn out of the side of the State, I would run a coach and four through the Acts of 1870 and 1881, that is the particular clauses that interfere with that operation.

1480. Would not that cause a tremendous amount of discontent among the tenants turned out?

On the contrary it would be the most popular measure a government could introduce. These lands are held by men who are looked upon not with favour by the bulk of the people. They are held by men who have done nothing for the lands. What right then have they to any compensation? They have not spent a farthing upon them; the lands are going backwards in their hands, deteriorating year after year, and rushes and worthless herbage are taking the place of grass.

1481. Surely

1481. Surely that is not recognised by an ordinary Irish tenant as a convincing argument against his right to possession, is it?

I say to your Lordship that the bulk of the Irish tenants, the vast majority of them, will applaud you if you adopt that which I suggest, and if you would run a coach and four through the Act to-morrow, dealing with those large tracts of land.

1482. Would it not be, I would go so far as to say, a great injustice if you turned out the tenants who are actually now on this land which you wish to utilise, without paying them?

I would provide (and I am very sorry it was not done in the Act of 1881) what I suggested to do with the Act of 1870, that is to make provision for taking up these lands and giving these men fair compensation. I would deprive no man, landlord or tenant, of anything without fair compensation; but if the State wants to take up these lands for its own purpose it ought not to hesitate to do it, more especially when they are in the hands of men who have done nothing for the State or for the lands.

1483. *Chairman.*] Do you consider that the Purchase Clauses are at all workable in their present form?

I think the Purchase Clauses in their present form are quite unworkable.

1484. Hardly any purchases of lands have taken place under them, have they?

Practically, nothing has been done.

1485. Do you think that when things get more settled in the country there is any likelihood of the tenants beginning to buy under the clauses as they are at present?

I think not.

1486. What improvement would you suggest in those clauses, so as to enable them to be rendered workable?

I see no reason for giving any opinion different to that which I expressed before Mr. Shaw Lefevre's Committee some years ago. I knew what very few people at that time did know, and what that Committee did not feel disposed to follow me in, namely, that the bulk of the small tenants whom you want to make occupying proprietors had no money available to pay down any portion of the purchase money that was required of them. Subsequent events have shown that I was justified in coming to that conclusion. I now say that they have not the fourth of the purchase money; therefore if it is to be statesmanship, it appears to me that the State must take the matter boldly in hand and grapple with it.

1487. Therefore, you think that the State should advance the whole of the money?

I still hold that opinion.

1488. And if the State were to advance the whole of the money, do you think that there would be a great number of purchases take place?

In the present tone and temper of the country I think you must give some inducements more than the Act provides. You must not only give the whole of the purchase money, I think, but do as your Lordships have suggested, that is, lend the money on easy terms, and extend the period of payment over, say 52 years, as in the case of the tithe rentcharge, by which you would actually bring the annual increment under the rent.

1489. Earl of *Pembroke and Montgomery.*] Does not such a long extension of time very much diminish the attractiveness of purchase?

I do not think so. At present the position is this, and possibly your Lordships will give me an opportunity of bringing it out; the divided ownership in the land created by recent legislation appears to me to leave almost everybody in uncertainty and doubt as to the future, and whilst, possibly, your Lordships may have been led to believe (as I see from the evidence that you have) that the people now do not want to purchase, I am in a position to say from my own

knowledge of the people, after conversation with them day after day for the last 18 months, that the more intelligent part of them are afraid that if the times improve (as we all hope they will improve), and if this Act is to be fairly and firmly administered, it may mean that there would be an increase of rent in many cases after the 15 years. I say this of the more thoughtful of them; that notion is very strongly rooted in their minds, and I think they are quite right; it is a reasonable view for them to take.

1490. And that, you think, makes them anxious to purchase?

I am sure of this, that the class to which I have referred are most anxious to purchase. In the evidence on that point I see it has been stated by several persons that they are not anxious to purchase; I brought here a few newspapers which show what is thought by the bulk of the people upon the subject, and if it is not occupying the time of the Committee too long, I will refer to some of them. Take Ulster; I see it has been stated by persons who, no doubt, believed they were giving you reliable information, that there is no desire for purchase in that province. I find here, that at a meeting of the board of guardians of Newtownards, as reported in a Belfast paper of this time twelvemonths, they passed the following resolution: "That, in the opinion of this board, nothing will satisfy the country and tend more to maintain law and order, and establish concord among all classes of the community, than the creation of a peasant proprietary, and we call upon the Government to buy out the landlords at a fair valuation." I acted as a Sub-Commissioner in that district, and more intelligent thoughtful tenants I never met anywhere; in point of intelligence I think they are equal to the farmers in any part of England. On the 21st January, a little before that, there was a great representative meeting in Belfast, which has been reported. I will merely give the reference to it, so that any noble Lord who wishes may see it. It is reported in the "Morning News" of 21st January 1882. At that meeting a strong resolution was passed in favour of purchase.

1491. But those resolutions do not seem to take any practical form; there is nothing to prevent the people purchasing now, is there?

There is everything to prevent them purchasing from. I hold that at present the farmer who would purchase on the terms offered him in the Land Act would be a very foolish man.

1492. *Chairman.*] You have evidence, as I understand, from all the different districts in Ireland. As we are rather pressed for time, perhaps you would just tell us the different districts as shortly as possible?

I have here eight newspapers that all bear the same tone as the resolution which I have read; some of them stronger.

1493. And all from different parts?

All from different parts of the country.

1494. Then you are of opinion that generally the wish of the better class of the tenancy of Ireland is to purchase their holdings, provided they could do so with, perhaps, some slight advantage in the way of a reduction of the payment to the State?

That is their view. They all believe that there is to be no final settlement without purchase.

1495. Do you think the establishment of a peasant proprietary would be likely to have a tranquillising effect upon Ireland?

I do.

1496. Do you think it would make the people more anxious for a quiet and for a steady government?

I am quite sure of this, that every peasant proprietor that you create will be a centre of loyalty, or, I may say, a conservative centre, using the word conservative in its broadest sense.

1497. You think there would be less likelihood of future agitations taking hold of the people as they have done in the past?

If

If you create an occupying proprietary on a sufficiently large scale, and on fair terms, lending the money at the rate at which the State can borrow, and extending the period of repayment over a sufficiently long time, I believe you will settle, once and for all, the Irish land question, but I believe that, before doing that, you ought to remove the thorn to which I have already referred. I am satisfied there will be a periodical recurrence of misery and anarchy if you do not remove that thorn.

1498. Earl of *Pembroke and Montgomery.*] Is there not this danger about making the terms too easy, that many of the tenants will be extremely angry if their landlords do not allow them to purchase; that is to say, if the landlords wish to retain the land. I mean, supposing the terms are made so easy as to cause a general demand on the part of the tenants of Ireland to be allowed to purchase their holdings?

I do not think so; I know a great many Irish landlords personally, men of even very large incomes, and many of them tell me that considering the state of Ireland, they think they have too much land, and I know very few proprietors in Ireland at the present moment who are not really anxious, if not to part with the whole, to part with so much of their property as possibly the tenants would care to get.

1499. Marquess of *Salisbury.*] At a fair price?

At a fair price.

1500. Earl of *Pembroke and Montgomery.*] But the tenants on the property of those who did not want to sell might possibly not approve of their wanting to retain it?

No doubt cases of that kind would arise. I rather think they would be so few as not to create any disturbing element. A very large number of tenants if called upon to pay down any portion of the money, are comparatively indifferent. If I were an ordinary tenant farmer, and had to pay down any money at all, I would say, No, any money I tie up as a proprietor, is worth very little to me, whereas it is worth a great deal to me to do with as I think fit. I am speaking now of the bulk of Irish tenants. I believe the bulk of Irish landlords are willing to sell the bulk of their property, and I am only very sorry on the interest of the good Irish landlords that the advice I gave before Mr. Shaw Lefevre's Committee was not adopted.

1501. Before the first Land Act was passed tenants would have been much more anxious to purchase than now, would they not?

If the suggestion made to that Committee had been adopted, it would have satisfied everybody, have closed the question for ever, and saved the landlords 60 millions sterling.

1502. *Chairman.*] Do you think there would be every likelihood of the payments to the State being regularly made by the new proprietor?

I have thought very carefully over that. I see many people hold the view there would be danger. After the most careful consideration I feel justified in saying to your Lordships that you need not apprehend any danger from that source.

1503. That is the source, I think, from which people apprehend the most danger?

So I see; but I think your Lordships will find this, that any man who knows Ireland well, and who has had extensive experience of or relations with the people throughout the country, has not come to that conclusion.

1504. I suppose you consider that the landlords who have been ruined more or less by this Act have no means now of selling their properties at all?

At present there is no market.

1505. And the only way in which they could be got out of their present difficulty would be by inducing the tenants to buy; is not that so?

I see no other solution of the difficulty. I am quite sure that the landlords who are in difficulty will not be relieved by the Purchase Clauses of the Land Act as

as they stand. I think they would be relieved, and I think they ought to be relieved by an amendment of the Clauses in the direction suggested.

1506. It is impossible to imagine that land is to continue in Ireland entirely unsaleable. Do not you consider that it is an absolute necessity for the State, having rendered land unsaleable, to take some means to render it saleable again?

My answer is, that as the State, for its own sake, has found it necessary to interfere with property, it appears to me to be self-evident that it ought to be just on the other side; and while it has given this great measure of relief to the tenant, it ought to say to the landlords, we will create a demand for your land, and we will give you a fair and reasonable price for it.

1507. And you think that that might be done without loss to the State?

I see no possible source of loss if it be properly managed.

1508. And you think that it would also be a great gain to the State in preventing fresh agitation and disloyal feeling, and the expenses attendant on that?

I am quite sure of that. I have made out very roughly the abnormal items of cost of governing Ireland for some years past, and I think if your Lordship or any member of this Committee will work it out, or get a competent gentleman to work it out for you, it will surprise you. This year, I suppose the abnormal cost of governing Ireland, that is to say, taking the state of the country as it is, as compared with an average healthy state, will not be far, if at all, under a million pounds sterling.

1509. Marquess of *Salisbury.*] Do you mean a million larger than the cost was ten years ago?

Yes. I think, speaking from recollection, Mr. Gladstone stated in the House of Commons some time ago that he had made an estimate at that time, and that it was 600,000 *l.* Since then it has risen, and I think it will not be under 1,000,000 *l.* this year. You would save all that.

1510. *Chairman.*] You think you would certainly save that without loss to the State by improving the Purchase Clauses?

Assuming that you have a strong and proper commission, which would take the necessary precaution in the purchase of estates, that is to say, have three strong capable men engaged in each transaction, not leaving it to any one man (so as to exclude the possibility of jobbery), I do not see how you could possibly have a loss.

1511. Have you found one element, which might prevent the farmers purchasing, in the fact that they are expecting fresh land legislation, which renders them unsettled?

I have; I stated on Friday that what they now ask me is, Are they going to get the benefit of the next Land Act? It appears to me that if English statesmen could only make up their minds to remove, in some way, that cancer of which I have spoken, to create an adequate number of peasant proprietors, and then do what you very likely will do, namely, grant another measure which is much needed, and then put your foot down and say definitely and firmly, "Beyond this we shall not go," a great improvement would be effected. "Give up your process of tinkering once and for all. In other words, do what really is wise and right, and then put your foot down; and until you do that I believe you will not put down agitation."

1512. Earl of *Pembroke and Montgomery.*] I should like to go back for one moment to the emigration scheme, and ask one more question. Is it not your opinion that one of the great reasons for proposing a certain scheme of immigration is that the very fact of the offer of migration being made at the same time as the offer of emigration would make the Irish tenants more willing to accept the offer of emigration?

I stated to the Richmond Commission that I believe that if my scheme were then adopted, 50 per cent. at least would prefer emigration. I believe if my scheme

scheme were offered now, a larger proportion would adopt emigration, and I will add to that that if I were the most enthusiastic advocate of emigration, I would offer them the alternative.

1513. Marquess of *Salisbury.*] The thorn, as you call it, is the trying to live on a very small bit of land?

It is; and by your ameliorating legislation you have not reached this evil at all.

1514. The thorn would not be the less severe if the person were the owner instead of the occupier, would it?

In this case it would not, and that is why I say that before beginning to create a peasant proprietary I should like really to remove the thorn.

1515. Before beginning?

Yes, before beginning.

1516. That is to say, by removing them out of the country or transferring them to some other place?

The thorns must be removed; that is, they must be lifted out of their present misery and want.

1517. But even so, when they had got their holding of 20 acres and upwards, how would you prevent them subdividing it; would you make it illegal to hold less than 20 acres?

I would. What I stated to the Richmond Commission, and what I state to your Lordship is, that all through my view has been that the state of affairs we have to deal with is abnormal, and that it ought to be dealt with by a temporary measure that would run for a limited time.

1518. Suppose a man has six sons, would you make it illegal for the six sons to live with him?

Certainly not.

1519. But then would not seven persons on 20 acres be very much like one person on three acres?

Not at all, because you allow the seven persons on the three acres. Will you allow me the opportunity of giving you a few facts bearing on this subject of migration. I know one estate on which there are 3,500 tenants on a rental of 900 *l.* a year; I know of another estate held by a noble Lord, where there are 2,000 odd tenants, representing upwards of 11,000 people on a rental of 4,000 *l.* a year.

1520. But that habit of remaining on an area that is insufficient to support them appears ingrained into the manners of the people; do you think that a mere prohibitory Act of Parliament would reverse that tendency?

What I stated to the Richmond Commission, and what I state now to your Lordship is this, after having carefully studied the people and their habits, and known perfectly well what their entire views, wants, and feelings are, I believe that those qualities that they possess have been actually forced upon them from without.

1521. Then you think if they were once established in the 20-acre holdings, the population which would increase would no longer stagnate on the same soil, but would, of itself, without any pressure from an Act of Parliament, spontaneously move off to other fields of employment?

I am sure of that, as I am of my existence. What happens now in the healthiest parts of Ireland, in county Down, for example, would happen in those districts to which I would lift the people. If your Lordship will look at the figures you will see that the largest emigration in Ireland, in certain years, had taken place in county Down, and other parts of Ulster, which are the most prosperous and loyal parts of Ireland.

1522. But also the most Scotch?

There are many districts in the county Down, and other prosperous parts of Ulster, where the population is largely Celtic.

1523. And you think that the habits and tendencies they have displayed under existing circumstances, would, under more fortunate circumstances in other parts of the country, be displayed by the other parts of the Irish population?

That is my belief; and I have arrived at that conclusion as the servant of the State after many years' careful observation.

1524. Earl of *Pembroke and Montgomery.*] Is it not your opinion that the tendency to subdivision is going out?

My experience is that it has practically died out, and I think the feeling and desire of the people to emigrate and get out of their present wretched condition at any sacrifice shows that for the first time they have come to realise their position; and if you do something, such as I suggest, you would give an entirely new direction to their thoughts.

1525. Lord *Carysfort.*] Do you think it would be possible to buy up, as has been suggested before, an estate, and redistribute all the farms upon that estate?

No later than yesterday I was asked by the proprietor of one of the largest estates in Ireland to carry this out. He offered it on what I thought very easy terms to carry out this very scheme upon it.

1526. You would have to deal with farmers who had a larger amount of land, would you not?

My own idea is that to carry out this scheme on an adequate scale, you will require to amend the 31st clause, and to introduce a clause enabling you to take up land for the purpose.

1527. Would it not be a very unpopular thing if a farmer had, say, 100 acres. and you were to say, I am going to take all, except 30 acres, from you, and give it to other men?

Instead of being unpopular, it is a very curious thing that I have, not here, but at my hotel, letters from most of the Roman Catholic Bishops in the congested districts, telling me (what I knew myself to be true) that the carrying out of that suggestion would be the most popular measure that any Government could introduce. I will name the bishops if your Lordships wish.

1528. Earl of *Pembroke and Montgomery.*] Is that from a feeling of hostility to the large farmers?

It may be partly owing to that; but chiefly owing to a desire to put things right all round.

1529. *Chairman.*] What class of land is this that you allude to?

The land that I allude to is not the mountain top, nor yet the bog. It is land of which you have lots in Donegal, Mayo, and Galway; land that before the famine was half reclaimed, land that had been touched by the spade of the people, but never properly reclaimed, and which is now worth on an average, I suppose, 5 *s.* to 10 *s.* an acre; it is land that could be easily improved in the hands of those people.

1530. Is there any of that sort of land in Wicklow?

You have bits here and there, but fortunately for Wicklow this thing is not required. There are very few congested districts in Wicklow.

1531. I was merely asking for my own information in order to arrive at the class of land that you refer to, because I know Wicklow very well?

You have none in Wicklow.

1532. There is no such land as that in Wicklow, you say?

No, not in Wicklow.

1533. And this land would grow good crops, you think, if it was treated in the way you suggest?

Experience enables me to say that it would.

1534. Without any very great outlay upon it?

My suggestion is that the State should not at all embark in any scheme of reclamation.

1535. But

1535. But surely the State would have to build houses, would it not?
I had better tell your Lordship what I propose to do by way of experiment. I would propose to buy an estate. On that particular estate referred to yesterday, I suppose it would require the lifting of 400 families, and the putting of them backwards on different parts of the estate. Possibly 250 of those families would emigrate. I have no doubt they would if you went to them and said, "We will give you the option." I would then have to provide on that vast territory after all for only 150 tenants. People are alarmed when they hear of it in a general way, for they have not time to go into the details; it is a much smaller thing on any particular estate than it would appear at first sight. Then I would lift these 150 people, and I would say to them: Now I give you suitable pieces of land, making future tenants of you under this Land Act; I will make equitable arrangements with you; I will employ you for two years in making certain estate works; I will have nothing to do with your ordinary tillages, but will pay you by piece-work at a low rate (and the lower it was the better it would be for themselves); and after two years I shall charge you rent, which will be the interest on the purchase-money, *plus* the interest of the money that I have paid you for actual work done. Assuming that to be properly superintended, there could not by any possibility be a loss.

The Witness is directed to withdraw.

MR. GEORGE WRIGHT, is called in; and Examined, as follows:

1536. *Chairman.*] I THINK you are a Barrister-at-law?
Yes, of 11 years' standing.

1537. Have you been engaged before the Sub-Commission Courts?
Yes, I have.

1538. Have you been counsel for the landlords?
I have been counsel for the landlords; I was employed as counsel for the landlords jointly with Mr. Atkinson, Q.C., who I think has been already examined before this Committee; we were employed together, that is to take turn about with the work as suited our mutual arrangements; that was in the month of November 1881.

1539. Marquess of *Salisbury.*] In what court?
In the Sub-Commission Court of Limerick and Cork, presided over by Mr. Reeves, his colleagues being Mr. Rice and Mr. O'Keefe. We acted under that retainer in the months of November and December 1881, and January, February, and March 1882.

1540. *Chairman.*] Did you act before any other Sub-Commission Court?
I acted for a week, I may say, off that circuit, owing to the illness of some other barrister; that was before the Sub-Commission at Kilkenny, presided over by Mr. Reardon (a barrister), and his colleagues were Mr. Cunningham and Mr. Seymour Mowbray.

1541. The greater part of your business then was before Mr. Reeves' Commission?
Yes, I may say the bulk of it; the other was only an off week.

1542. Have you found any great difficulties arise from the fact that the tenants do not state their improvements on the originating notice?
I have, and I thought it was a great defect, though it was very hard to see a remedy for it, but a rule was introduced after a while by the Head Commission; there was no remedy that I could find out so far as the Sub-Commission Court was concerned; the remedy was by application to the Head Commission Court

in Dublin; that is, what is called the Chief Commission Court, I believe, strictly speaking; the remedy was by making an application there for particulars; but the particulars when furnished were, as a rule, vague and misleading; that is to say, they might comprehend anything, and, generally, they gave very little information. For instance, there were a number of cases on the estate of a Limerick landlord, Lady Louisa FitzGibbon, and on that estate I remember one case in particular. The existing rent was 17 *l.* a year, and particulars of improvements were delivered; I totted them up, read them to the Court, and they amounted to 620 *l.* The particulars of those improvements might embrace anything and everything, they were so general, but really they told you very little.

1543. Then, as a rule, you find that the present system is injurious to the landlord's interest?

I thought so.

1544. Did you find that the Sub-Commissioners paid much attention to any evidence that you brought before them?

No, the Sub-Commissioners when they began at first (and remember that my practice before them was in the first six months after their appointment) were like men learning their work, I think. Except the legal Commissioner they had none of them any practice in hearing evidence. They knew nothing about the weight of evidence, the demeanour of witnesses, or anything of that sort; they were gradually learning. At first they were disposed to pay the greatest attention to the evidence, and to attach undue weight to the testimony of witnesses, who, as a rule, when their own interests were concerned, were not very reliable, I mean the tenants and their valuators. After a while it appeared to me that they paid less and less attention to the evidence; and towards the end of the time my impression from practising every day before them was this, that the residuum left on their minds, or on their notes of the evidence, was simply two or three figures, that is to say, the acreage, the rent, and the valuation, and in addition to that, perhaps, some figures of improvements that were claimed to have been made by the tenants.

1545. Marquess of *Salisbury*.] You think that they did not put down either the landlords' valuation or the tenants' valuation?

No, I do not think they did, but I am not sure.

1546. *Chairman*.] In this particular Sub-Commission, you mean?

I am only talking of the Limerick and Cork Sub-Commission.

1547. We have had some evidence before us as to mathematical calculations which have been made in arriving at the rent; have you had any experience of that?

Mathematical calculations; I do not understand that.

1548. Mathematical, or arithmetical; that is to say, putting down the landlord's valuation, the tenant's valuation, the old rent, and Griffith's valuation, adding them together, and dividing by four?

I never heard of that; or rather I mean to say that I have heard of it within a very recent period, but never during the six months I was practising before them; I had an idea myself as to how they arrived at their conclusions, but I do not think it was in that way.

1549. How was it?

My own impression, which I tested more than once, was, that they took the rent, and the poor law valuation (I do not think they minded the landlord's valuation very much, or the tenant's valuation very much); that they then looked at the farm, and if the farm appeared to be a poor one, no matter how that poorness was arrived at, whether by the neglect of the tenant, bad husbandry, or otherwise, that they then came as near to the existing poor law valuation as they possibly could.

1550. Earl of *Pembroke and Montgomery*.] Are you speaking of one Sub-Commission, or of Sub-Commissions in general?

All along I am speaking of the Limerick and Cork Sub-Commission; I had only

only a week before the other, but it is very curious that I came to very much the same conclusion before it.

1551. Marquess of *Salisbury.*] That the poor law valuation was taken absolutely if the land seemed poor; is that what you mean?

The poor law valuation, I think, was taken as the great guide, whether the land was poor or rich; but a greater abatement was made from the rent if the land seemed poor than if the land looked well; in all their decisions I found that two figures had guided them and no others, and those were the rent and valuation.

1552. You think it was intended to be the mean between the two?

Certainly; approaching more nearly to the poor law valuation; they were the two termini within which the judicial rent was almost invariably to be found, and generally nearer to the valuation than to the rent.

1553. *Chairman.*] The judgments that were delivered at first were rather different from those that were delivered afterwards, were they not?

Yes, I believe they were. Mr. Atkinson, my colleague, was counsel for the first few weeks, and during his time they delivered some formal judgments, going through a little of the history of the cases, saying that the land was poor, and so on, and that they reduced the rent so much. In my time, when I came down I found that a different system prevailed, and that they simply stated that the old rent was so much, and that the new rent would be so much.

1554. They gave no reasons?

They gave no reasons.

1555. Did you ever apply to them to give reasons?

I never applied; I have never been in the habit of asking a judge after judgment was given to state his reasons. According to the rules of our profession, it is entirely irregular when the case is closed and judgment given to do so. If you are dissatisfied with the judgment you can appeal if you think that you have reasons for appealing. I remember very well one case which was heard in Mr. Atkinson's time, but the judgment in which was given in my time, for they generally gave judgment about a fortnight, or something like that, after the hearing. The acreage in that case was 15½ acres. Mr. Reeves, in giving his judgment, stated, "My colleagues have visited the farms, and all that, and they consider that 2 *l.* an acre all round is a fair rent, and for the 13½ acres that is 27 *l.*" The solicitor who had instructed Mr. Atkinson, and who was instructing me then as landlord's counsel, said to me, "This is a mistake, there are 15 acres;" he said that as soon as judgment was given. I then, not challenging his reasons at all, but the basis on which the judicial rent was calculated, got up and said, "You have made a mistake as to the acreage; there are two acres more in the land than you have taken account of in the rent." It was admitted there were two acres more and that there was no difference in the quality of the land, but, said Mr. Reeves, "That is the judgment of the Court, 27 *l.*" (or whatever it was. I am accurate as to the acreage, but I am not accurate as to the rent, and do not pretend to be); "we have given judgment, and we cannot alter it." I do not remember on any other occasion challenging their judgment except in the way of advising an appeal. I have never in my life addressed a Court after a judgment has been given, except where there was some radical and patent mistake like that which I have mentioned in the grounds of the judgment.

1556. Lord *Carysfort.*] Is it not usual, if you apply to the Sub-Commission Court for a case for appeal, for the Court to give its reasons, and to state how it came to that judgment?

No, never.

1557. In every other Court it is so, is it not?

In the other Courts it is invariably done; I am talking now of the higher Courts. The very first thing that the Court of Appeal in the case of the higher Courts asks is, "Have you a copy of the judgment of the Court below, so that we may see the grounds of their decision?" It is always asked for.

1558. *Chairman.*] Then when these cases go up from the Sub-Commissioners

to the Court of Appeal, there is no information given to the Court of Appeal as there is in ordinary cases at law?

None.

1559. Must not that make it much more difficult for the Court of Appeal to arrive at any fair conclusion?

Yes. In my experience, although I did not care for the practice of the Sub-Commission Court very much, I disliked the practice of the Appeal Court even more. I was through one sitting of it, that was in April 1882, where I acted as counsel for landlords in about 60 cases; it was the most unsatisfactory tribunal I was ever before. What occurred was this; they took up the figures, the old rent, we will say, 100 *l.*; valuation, 70 *l.*; the new rent, 80 *l.*; then they took up the Court valuer's report, which was a document concealed from the parties; it was entirely for the information of the Court, and they turned round to me as landlord's counsel, the landlord being the appellant, and said, "Can you go on with this appeal in the face of that document?" they would show me the document. I have taken a case where the judicial rent was 80 *l.*, and I have turned to their own Court valuer's report and found, fair-letting value 86 *l.*, and they would say, "Do you think we will vary the decision of the Court below for such a trifling difference as that?" Now do not imagine that I am talking of an isolated case. I had a week of the hardest work I ever had in my life, in Limerick, in 1882. I think probably I was engaged in fully 80 cases. Under the Act it is a re-hearing so-called, but it was no re-hearing; in certainly a fourth of the cases I was stopped in that way.

1560. Earl of *Pembroke and Montgomery.*] Then, in fact, the real Chief Commissioner in Ireland is the Court valuer?

At that time it was so certainly, I do not know what has occurred since; I have hardly practised in the Court since.

1561. Marquess of *Salisbury.*] Did you ever arrive at the percentage which the Superior Court would consider to be a sufficient difference to justify them in altering a judgment?

I do not think I ever considered it before, but I think I can answer the question now. I think once there was a difference of 15 per cent. between the Court valuer and the judicial rent as fixed by the Sub-Commission; I think then they would re-hear the case. I do not think for anything short of that they would.

1562. Nothing short of 15 per cent.?

I told you that I had not considered it before, but I do not think they would re-hear a case for less than that. I think it would be about that; I doubt if they would really. I know that for anything like the figures I have given (80 *l.*, and 86 *l.*, that is a difference of about 7 per cent.), they would not listen to it.

1563. *Chairman.*] Is it usual in other courts of law in Ireland to, I may say, frighten the landlord's counsel from appealing by holding up to him the judgment, or probable judgment, before it is given?

No, I never knew it done before; indeed I may say that such a thing was never heard of before; the case that is most analogous to this, is the appeals under what is called the Civil Bill Act. Those are heard before the County Court judges in Ireland; I do not mean the land cases, but ordinary cases, their jurisdiction being a limited one; the limit being 50 *l.* in dispute; there, it is strictly a re-hearing. The judgment of the Court below is put on one side. The judge is informed at the beginning that the finding is for the plaintiff or the defendant, but except that there is no reference made to the judgment of the Court below until the end of the new hearing. You examine, perhaps, the same witnesses and, if you choose, additional ones. The case is heard out to the end, and decided on the evidence then adduced, and not on what has occurred below, but they never give any expression of opinion that they will probably prejudge it, or that they have probably prejudged it against you; such a thing was never heard of in any Court.

1564. In

1564. In the form in which the decisions are given, is it possible for you to know whether the legal part of the Land Act has been properly carried out?
No; from the decisions it is impossible to say how they have arrived at their conclusion.

1565. We have evidence from some of the legal Commissioners (or at any rate one legal Commissioner), that they do not know how the Sub-Commissioners arrive at their conclusion?
The public, and the practitioners, are in equal ignorance. There was never the slightest indication given either by that Commission before which I mainly practised, or the other, as to how they arrived at their conclusions.

1566. Then you, acting for the landlord, cannot possibly tell whether the law of the Land Act is being carried out?
No.

1567. Earl of *Pembroke and Montgomery.*] And they never tell you either how much they allowed for rent, and how much for tenant's improvements, do they?
Never.

1568. Did you never ask them that?
No, I never did, and they never told me themselves how much they allowed for improvements, or what improvements they allowed for. Those were two things as to which I was always in the dark. The landlord's counsel is entirely on the defensive; he is in the dark also; he can only meet the case that is made, and when a tenant relies upon certain improvements he can only try to minimise them as well as he can, or say that they are not improvements at all; but whether they are improvements or not, or whether they are taken into account, or if taken into account how much is allowed for them, he is not told.

1569. *Chairman.*] Before Mr. Reeves' Commission did you ever hear anything at all as to a scale of prices?
I never heard of such a thing.

1570. Do you consider from the form of the judgments that the increase in the value of production was taken into consideration?
I never had any reason to think so from anything that was said judicially.

1571. Marquess of *Salisbury.*] Were the prices of farm produce brought in evidence in your opinion?
No. I was going to say this, tenants' valuers would constantly talk of the dearness of labour now as compared with what it was in old times, but the value of farm produce now I have never heard alluded to, either by the witnesses or by the Court in giving judgment I heard talk now and then of American competition when a tenant sought to make a case for a reduction, but it was only put forward by the tenant; I never heard it further alluded to.

1572. *Chairman.*] Did you not yourself in acting for the landlord ever bring that element into consideration?
No, I do not think I have.

1573. If a farm had been let, when everything that the farm produced was probably a good deal lower than it is at present, and the rent had not been changed since that time, do you not think it ought to be taken as fair; and do you not think also that that would be a fair argument to bring forward?
I daresay I might have done that, but I never did; I generally relied on the fact as well as I could that the rent had been paid for a number of years without any complaint, and apparently without any difficulty.

1574. We have had a good deal of evidence about fencing before us. Before Mr. Reeves' Commission did you find that they took into consideration either putting up or taking down the internal fences of a farm?
They always took evidence of it, and in every case evidence was given of so many perches of fences (I am talking now of internal fences, not boundary

fences) levelled, and so many perches of internal fences made. The tenants always claimed in a double if not in a treble way, as I have often pointed out to the Court. First of all they level the fence in one place, and claim for the cost of this; then they would claim for so much land added to the farm, being the land covered by the old fence. Then perhaps a few years afterwards, having nothing to do, or to dispose of some rubbish, or it may be from caprice or any other reason, they would build a fence in another place; then they would claim so many perches of fence so made there; and these alterations were always taken as evidence of improvements.

1575. Earl of *Pembroke and Montgomery.*] Did not the Court ever get the tenant's counsel to understand that they could not claim on all three?

Never. I have practised under the Act of 1870, which was of course before the County Court. I have had the same practice there as to fences, and what I used to call this treble claim against the landlord. I was generally landlords' counsel there too, whenever I had any practice, and the County Court judges used invariably to disallow these claims; that is to say, they disallowed this sort of treble claim; frequently disallowed it altogether. We used always to have evidence there by good valuers for the landlords that this alteration of fences was no improvement whatever, but before the Sub-Commission Court there never was the slightest indication of opinion that this fencing was not taken as an improvement.

1576. Did not the Court make it understood that every improvement upon which a reduction of rent could be claimed must be in addition to the letting value?

That of course, you may say, is the law they are administering.

1577. They did not lay it down in Court you say?

No.

1578. Marquess of *Salisbury.*] Do you think they attended to it in practice?

I could not tell; they never said whether they did or not; they never said that they did not attend to it.

1579. Did you find that it always did add to the letting value of a farm whether the fence was taken away or put up?

It was always relied upon by the tenant and his advisers as adding to the letting value of the farm; that is to say, being an element they could rely upon for reducing the rent, and as being an improvement of their own; but whether the Sub-Commissioners gave allowance to that in their judgments, or not, I do not know.

1580. And you had no means of ascertaining?

None whatever.

1581. Had you any means of ascertaining whether they gave any allowance for deterioration of a farm that might have suffered from the bad husbandry of the tenant?

My impression was that the bad tenant got the benefit of that. I constantly gave evidence for the landlords of bad husbandry, and one case I remember most distinctly, and perhaps I might give the particulars of it. The case was that of O'Regan *v.* Cantillon. It was a farm that had been let in the year 1864 at a rent of 127 *l.* a year; the tenant it was admitted (for all this was brought out on cross-examination, was a drunkard and a spendthrift; he died in 1869, leaving a widow and young family in possession; and he left them in difficulties, which grew worse; everything they had was sold off (not by execution from the landlord); they were unable to till the farm, and they were unable to graze it, and for three years before they came into Court they had been meadowing it, which, although I know very little about land, is, I believe, not an improving process for so many years. We proved, affirmatively, that the land was in a wretched condition; we also proved that on a certain occasion before the Land Act was thought of in 1866, the landlord had got a valuation of his whole estate made with a view to lowering his rents; he

he lowered the rents in every case except this, and in this his valuator recommended an increase which was not put on it; this was at a time when the land was in good condition; the Sub-Commissioners viewed it, and reduced the rent from 127 *l.* to 83 *l.* I could only account for that on the assumption that they gave the tenant the benefit of his (or her) own bad farming. I appealed in that case, and the Court valuer valued it at 106 *l.*; there were no improvements, and the Court valuer knowing nothing of the history of the farm valued it as he found it; that was his system invariably. The head Commission then fixed the rent at 95 *l.*; so that it was 127 *l.* at first, going down to 83 *l.*; then the Court valuer making it 106 *l.*, and the head Commission 95 *l.*

1582. Marquess of *Salisbury.*] Will you repeat the figures?
£. 127 the old rent; 83 *l.* the Sub-Commissioners' judicial rent, Court valuation 106 *l.*, rent on appeal as fixed by the head Commission 95 *l.*

1583. If you add 106 *l.* and 83 *l.* together, and divide by two, it brings out 95 *l.*, I believe?
I did not know that.

1584. At least it brings out 94 *l.* 10 *s.*?
I did not know that, but I have given the exact figures; 95 *l.* is even money.

1585. *Chairman.*] To take you back to the question of fencing, would you consider that the Sub-Commissioners would go so carefully into the figures as to fencing, as they appear to do, if they did not take it into consideration?
I do not think myself that they went into the evidence at all carefully.

1586. I thought I understood from you that as to the fencing they took all the evidence?
Yes; what I wish to convey is this, that they apparently took all the evidence in Court, that is to say they gave no expression of opinion in Court that they did not regard what I have described as an improvement, and therefore as a material fact, and a material issue to which to direct evidence on both sides; but my own belief is that the evidence as to that did not make much impression on them, and that they really went on what I have stated already, the rent and the valuation and just looking at the farm.

1587. Earl of *Pembroke and Montgomery.*] I do not understand how these Sub-Commission Courts manage to preserve this amount of reticence on a point of that kind, because surely it is a point of law, and not of fact, as to whether they would allow under the Act a fence pulled down and built up again, and pulled down and built up a second time?
The difficulty is this: if the Sub-Commission Court were like any other Court, which decided on evidence, there might be no difficulty, because after the evidence was given on both sides you would say the balance of the evidence is, that this is not an improvement, and that it does not add to the letting value of the farm; but the Sub-Commission Court is unlike any other Court; the Sub-Commissioners would hear the evidence, but whether they acted on it or not no one could tell; then they said, now we will go out and look at the land, and then they came in with the bald result, and said, so much will be the future rent. You could appeal from that or not as you liked, but whether they did really allow for those fences or not, no one could tell.

1588. *Chairman.*] Mr. Reeves gave evidence that they never take into consideration, except under very special circumstances, the internal fences; that would not be your experience, I gather?
My experience is that they never gave me to understand that, and I was keen enough to know what was passing in their minds; I had nothing else to do but to watch them for six months.

1589. With regard to reclaimed land, do you consider that it was usual to put the full market value upon reclaimed land when the tenant had cut the turf out, and had got the advantage of cutting the turf out?
No; they never put the full value on it, or anything like the full value; the evidence of reclamation was always very loose and vague; it had often been

done by the present tenant's father, or uncle, or his father-in-law, or some one like that. The evidence, as I say, was always very vague as to the original state of the land or as to what had been done to bring it into its present state, but assuming that there had been a certain amount of reclamation (it was never very thorough), they never fixed on it anything like the full market value; it was always a sort of compromise rent that was put on it, so far as I could see.

1590. Would you agree with this statement: "If, for instance, the tenant got the turf which he carts off for his own use, we" (that is the Sub-Commissioners) "would hold that he was paid twice over for his reclamation, and put on the extreme market value of the land as it is at present"?
I do not think that was their practice.

1591. You just now stated that they never did put it on?
They never did.

1592. Have you ever come across cases of that sort?
I have.

1593. And in that case did they put on the full market value?
They certainly did not.

1594. In cases where the rent has been paid for a long time, and the tenant has seemingly prospered, was it usual before this Commission to leave the rents as they were or to reduce them?
To reduce them.

1595. Have you any instances of that?
Yes. As I said before in the beginning, these Sub-Commissioners were, as I thought, like school boys having their business to learn; that is to say, they did not know in the least what to do with evidence, and for a time, for the first few weeks that I was before them, and I think my colleague, Mr. Atkinson, also, they were in the habit of attending to evidence of these facts, and of others that were wholly immaterial; but after a while they got entirely beyond that, and when I used to cross-examine the tenant as to the rent being unchanged so long, and as to his having money in the bank, or having bought house property, given his daughters fortunes, and all that, they used to lean back and look at the ceiling and pay little or no attention. The result was, in my opinion, that they always re-valued the farm, and fixed the rent on their own valuation. I can give you certain examples of that; I have the names of the cases here, and I remember the figures very exactly.

1596. Earl of *Pembroke and Montgomery.*] Was this before Mr. Reeves' Commission?
Yes. I am talking entirely of his Commission. There was the case of a farm within a few miles of the city of Cork. It had been in the hands of the Turpin family as tenants for over a hundred years. The rent was exactly 100 *l.*; it had been held first for a lease for a term, I think for 31 years, then for another term of 31 years, and I think after that and since then, as a yearly tenancy. The rent had always been 100 *l.* The tenants had grown rich on it; the present tenant admitted that he was rich, and the Sub-Commissioners reduced that from 100 *l.* to 85 *l.*

1597. *Chairman.*] Is that Mr. Reeves' Commission?
Yes, Mr. Reeves' Commission. His two lay brethren went out and looked at the land and reduced it to 85 *l.*, the poor law valuation being 70 *l.*

1598. Earl of *Pembroke and Montgomery.*] This was not merely the nominal rent, but the rent always paid?
The rent always paid, and admittedly paid without difficulty, and without complaint.

1599. *Chairman.*] Have you any other cases of the same sort?
Yes, there was a case on the Gascoigne estate. It was the case of a man named Fitzgerald. There were seven cases heard altogether; some of them may have required revision, and got it; this case did not require revision. Fitzgerald started in

in life as a farmer about the year 1850. I remember it was just after the famine time; he held his farm at a rent of 37 *l.*, and some shillings; he has lived on that farm from that day to this, the rent has always been paid; that was proved by the agent, Mr. Townsend. He had since acquired two farms which he had bought with money made out of this farm, having no other means of making money except this farm; he had bought house property, and was practically owner in fee of that house property, subject to a small head rent, and had a fee simple profit rental of 70 *l.* a year out of it. He refused to tell me how much money he had in the bank, but it was virtually admitted that he had a large amount. I contended that on those figures no proper tribunal in the world would touch his rent, but they reduced it from 37 *l.* some shillings to 33 *l.*; that, I considered, was a most monstrous reduction.

1600. Earl of *Pembroke and Montgomery.*] Was the land in bad condition?

No, it was not; he was a good farmer.

1601. *Chairman.*] Have you known of other instances of the same kind?

Yes; there was the case of a landlord named Gilbert O'Grady, who had succeeded his father some years ago; the rents on his estate had not been raised since 1819. In 1819 they were higher than before the Land Act. They had been reduced a little in the year 1841, 31 years' leases were granted all round the estate from 1841 down to, I think, 1872; the leases then ran out; the same rents as at present continued to be paid; the occupiers had been yearly tenants from 1872 to the present time; the tenants said there had never been a fine taken on the estate; there had never been a notice to quit given, and there had never been a writ served; they spoke in the highest terms of their landlord, and the tenants' valuators themselves in the cases I am about to cite almost came up to the existing rent. Now come the figures, I have them here: one of the tenants was a man named Moore; his is a very small holding; his rent was 10 *l.*, the valuation being 7 *l.* The Sub-Commissioners fixed the rent at 9 *l.*, I having contended on the evidence that the 10 *l.* was a fair rent.

1602. Marquess of *Salisbury.*] Dividing 10 *l.* and 7 *l.* by two makes 8 *l.* 10 *s.*, does it not?

Yes, there was a very curious thing in that case; the tenant's valuator swore that the value was 9 *l.* 5 *s.*, and there were no improvements. I said it was a monstrous case to touch, but they reduced it to 9 *l.* I appealed in that case, and the Head-Commission asked me, "Do you want us to change 9 *l.* into 10 *l.*?" I said, "I want you to do what the Sub-Commission have done; they changed 10 *l.* into 9 *l.*" I convinced them after a long argument that the thing was capable of rehearing, and they did change it back to 10 *l.* Another case on the same property, heard at the same time, was that of a tenant named Fitzgibbon. Fitzgibbon's rent was 23 *l.* 17 *s.* The history of the holding was the same from 1819 down to the present, as in the other case. The valuation was 19 *l.*; the Sub-Commissioners changed the rent to 22 *l.* 10 *s.*; that is to say, they took off 27 *s.*, and the Head Commission bore them out in that. They confirmed the 22 *l.* 10 *s.* There is one other instance that I want to mention; that is the case of Forest against Nixon, a case heard before the same Sub-Commission in the City of Cork, and it was a very remarkable case. It was a case brought by the executors of a man named Forest. It was a very curious tenancy, for this reason: Mr. Forest was a milk and butter dealer in the City of Cork, having large contracts with the Lunatic Asylum and Prisons, and a lot of public institutions there. He had also a shop in Dublin, and he supplied these institutions out of a splended farm that he had near the City of Cork, which he held at a rent of 300 *l.* a year; he never resided on the farm. The poor law valuation was 162 *l.* It had originally been held at a rental of 360 *l.* under a lease for 19 years made in 1838. It was the property of some minors, and the estate was in Chancery. When the lease ran out, it was again let at 360 *l.* for a term of seven years; when that ran out, it was again let in 1866 at 300 *l.*, but this lease was set aside because the lessor had no title to make it, but the tenant remained on as a yearly tenant, and the rent since 1866 had remained 300 *l.* It was proved that Forest had died a few years before the time of his executors coming into Court, and his personal estate was valued under 7,000 *l.*,

that money having been made out of his business as a milk and butter merchant, the milk and butter being the produce of this farm. I contended that that farm did not come properly within the Act, that the rent didn't require revision, that it was a commercial speculation, and so on. Mr. Reeves took my view, and held that it was outside the Act, but he was overruled by his lay brethren.

1603. Earl of *Pembroke and Montgomery.*] On a point of law?

Yes, I assure you that it was so. He held that it was not within the Act. They said it was; they went out and looked at the farm, and not to embarrass themselves by any nice calculation, they took 25 per cent. off it, reducing the 300 *l.* to 225 *l.* for the future.

1604. Marquess of *Salisbury.*] Just perform that sum; what does the Poor-law valuation and the rent amount to?

£. 162 is the amount of the poor law valuation; the rent was 300 *l.*, that would be 462 *l.*; dividing that by two, the amount would be 231 *l.*

1605. What did they put it at?

They put it at 225 *l.*; 25 per cent. was a safer guide. Mr. Reeves gave judgment in my favour, but his two lay brethren over-ruled him. That was altered in some way, I believe, by the Court of Appeal, but as I was not counsel on the appeal, I cannot tell you how.

1606. *Chairman.*] Your impression is, as I gather, that where rents had been paid for a certain number of years, it was not usual; in fact, that it was the other way, for the Court to take that as a proof that they were fair rents?

It was set aside entirely.

1607. You mean that it was quite the reverse, as I understand?

It was put on one side as a matter affording them no guidance whatever.

1608. You would not agree then with this statement which was made by Mr. Reeves, that if a man had made his livelihood, had improved the land, "increased his stock, put his children out in the world, given them fortunes, and so on," that those would be circumstances which would be taken by the Sub-Commissioners as stronger evidence than the report of any valuer?

I do not agree with that at all.

1609. Then he continues thus: "On the other hand we have seen cases sometimes which we considered entitled to the greatest consideration, in which the rent has been paid for a long time, but always with difficulty. In that case I do not think that the rent having been paid any length of time would be a presumption in favour of such a rent"?

In the four cases I have given the rent had been always paid without difficulty or complaint.

1610. Mr. Reeves' evidence is strong to the effect that wherever a man has prospered and paid the rent for a long time, they would never alter it. Your experience seems to be the other way, does it not?

My experience is entirely the contrary; I think that for a very short time in the beginning of the practice of their office as Sub-Commissioners, they did pay some attention to it, but after a very short time I think they had got quite beyond that, and considered that their province was to revalue. That, I believe, was the real explanation of it, and the presumption of an existing rent being a fair rent was set aside. They acted as though their duty was in every case to revalue, but with the revaluation Mr. Reeves had no more to do than I had.

1611. There was a question answered by Mr. Atkinson (who, I think, you say was your colleague) about Blake *v.* Lord Clarina; was that a case in point?

Yes; that was a case in which Mr. Atkinson was counsel; I remember that case; I was present when judgment was given in it, but I may state at once that I was not counsel in it.

1612. Then we need not go into it. Was it the same class of case?

It was; it was a case where a man had paid a certain rent, I think 52 *l.* 13 *s.* 4 *d.* The old rent was 50 *l.*, and there was 2 *l.* 13 *s.* 4 *d.* added for composition on tithe rentcharge,

rentcharge, and that had been paid for a number of years without any complaint and without any difficulty. The man had bought farms and admitted that he had made out of his land (at least he would not divulge any other source of making money, but this one farm) 700 *l.*; he had been offered 150 *l.* by the landlord for his interest in this land long before the Land Act, and he would not take it, and they (the Sub-Commissioners) reduced that rent, though they did not make any substantial reduction. They reduced it, I think, by 4 *l.* a year; that and the cases I have mentioned, and my general experience of them, led me to believe that they did not consider that their province was to see whether the rent was a fair one or not, but to revalue the land.

1613. We had evidence from Mr. Reeves that he did not make any small alterations in rents; that is not your experience, you say?

No, it is not. I have given you already the cases of Mr. O'Grady, and one case on the Gascoigne estate. In the case your Lordship has reminded me of, of Lord Clarina, there was a small reduction also in a rent that had been paid for over 30 years. My experience was that they considered that their function was to re-value, and no two valuers are ever agreed on anything unless they agree to agree.

1614. As to the improvements that were put in by the tenants when they put in a claim for improvements, did the Court make them adhere to the claim which they had put in, or did they allow them to spring fresh improvements upon the landlord while in Court?

I cannot answer that exactly. The practice had only grown up a short time before I left, of furnishing these particulars at all, for the Act was then in its infancy. My experience of them was confined almost entirely to the cases of Lady Louisa Fitzgibbon, in which most enormous claims for improvements were made; I cannot say whether the Court bound the tenants to them or not. I would rather not say that. I do not remember any instance, and without instances, I do not like to give a definite opinion.

1615. As to men who have purchased farms just before they came into Court, and paid a high price for them; have you had any experience of their rents being reduced?

I have.

1616. Mr. Reeves gave evidence that that would be a presumption as to the fairness of the rent. Have you had experience of that?

I have had experience of that, and I have found their practice very conflicting as to it. Their practice on that matter, I think, was the same as in the case I have already spoken of, namely, where rents had been paid for a number of years unchanged. At first they were inclined to dismiss those cases as not requiring revision, but after a time they grew quite beyond that, and considered, as I have said, that their province was in every case to re-value. I remember a case; I cannot give the names of landlord or tenant, for they have gone out of my head, but I can give the exact figures of one case, and if I were back in Dublin I could send the names.

1617. You can add them when you are correcting your evidence?

Then I will give the figures now and the names afterwards. In one particular case, in my experience, a tenant bought for a very high price a farm in the year 1877 or 1878. The existing rent of the farm was 44 *l.* 14 *s.* 1 *d.* That rent was changed by the Sub-Commission Court, I having contended that the man bought with his eyes open, and should not be allowed now to get the benefit of legislation, and that the Act was not meant for him. The rent was reduced to 32 *l.* It came before the Court of Appeal. I was counsel for the landlord in the Appeal Court, and the rent was there raised to 37 *l.* That was half way between the two. Mr. Commissioner Vernon remarked to the man, "Did not you buy this with your eyes open? I think you ought to be held to your bargain;" but notwithstanding that, Mr. Commissioner Vernon concurred in the judgment of the Court; in fact he was one of the two Commissioners; there were only Mr. Justice O'Hagan and Mr. Commissioner Vernon present; that was a case of Thomas Punch, tenant; George Furnell, landlord.

1618. Marquess of *Salisbury.*] That was arrived at in the same manner, by adding the old rent to the judicial rent and dividing by two, was it not?
The result could be reached in that way, certainly.

1619. That seems to be a favourite plan with the Appeal Court, does it not?
It was the most unsatisfactory Appeal Court that I was ever in, and I have been in all except the House of Lords; that case is utterly at variance with that statement of Mr. Reeves, and there were several other cases in which that happened. My experience was, that at the beginning of their time they were inclined to dismiss those cases, but after a time they got quite beyond that, and said or thought "our province is to revise every rent."

1620. Earl of *Pembroke and Montgomery.*] And always in a downward direction?
There was no other direction. The only chance of succeeding for a landlord was to try and bring the case within one of the exceptions of either the 57th or the 58th Section of the Act, and those are very limited, but outside them there was no possibility of upholding the existing rent.

1621. Did they ever rule that the sum which had been paid for a tenancy was not evidence, when you were before them?
They never ruled that, but they have frequently said to me, or in my hearing, but generally to me, "We know the extravagant sums that have been paid for land within the last few years, the Irish tenant will pay anything."

1622. *Chairman.*] Mr. Reeves gave us evidence to the effect that he would not take a case, I think, where the land had been run out; he says, "I would have dismissed the case of a tenant who had scourged the land." I think from an answer you gave to Lord Salisbury, that that was not your experience?
No.

1623. You say that they did go into those cases, and reduced the rent upon them?
Yes; I have given you one case already, that was the case of O'Regan *v.* Cantillon. In a number of other cases where they were broken-down tenants, and exhausted farms, I have frequently urged upon the Court that they ought not to impose upon the landlord a tenant who was plainly insolvent, and who had brought himself and his farm into a condition of insolvency. That argument was always set aside; they said "Our business is to fix the rent," and they did fix it.

1624. Earl of *Pembroke and Montgomery.*] Could not you appeal upon that under the equity clauses of the Act?
Yes, and I always did, and they said, "Our business is to fix a fair rent; we cannot deprive the man of the right of selling."

1625. *Chairman.*] Did you urge how ridiculous it was to reduce the old rent by a very small reduction before Mr. Reeves' Commission?
I have often done so.

1626. And yet it was carried out?
Always. In Mr. O'Grady's cases, which made a very great sensation at the time, and impressed me very much, I urged that very strongly, as strongly as I possibly could, and I do not think that my arguments really received the slightest attention. I do not know what Mr. Reeves himself would have done; of course he attended to them, but his lay brethren, who were the real valuers, did not pay the slightest attention to them. They looked at the rent, and the valuation, and then they went out and looked at the lands and they re-valued them.

1627. You say that you yourself never asked for the reasons of the judgment, but have you ever been present in a Court when other people have asked for reasons and have been refused?
I have. I was in the Head Commission Court in Dublin, in Merrion-street, one day, on other business; I then heard the Commission give judgment in some cases fixing rents (and fixing rents there, as elsewhere, means reducing them), and the solicitor for the landlord in one case jumped up the minute that judgment

ment was pronounced, and said "Your reasons?" saying nothing more; he did it in that abrupt manner; the reply he got was this, "We are not in the habit, Sir, of giving our reasons" said one of the Commissioners, turning round to him. The solicitor sat down at once. That is literally what occurred in my hearing. I was not in the case, but I was a witness of it.

1628. Marquess of *Salisbury.*] When you said that the Appeal Court was the most unsatisfactory you ever practised before, I understood you to refer to the very hasty character in which the proceedings were conducted?

That was only one of the things I referred to. I did refer to that, but there were other things I referred to also; I have given your Lordship already cases in which they had prejudged them, in fact, on their own valuer's report; but besides that there was this to be said, that in cases where the valuer's report was much in excess of the judicial rent, as fixed by the Sub-Commission, I never could make out in what way they acted on the valuer's report. I remember, very distinctly, some appeal cases which I was in; I do not know who the Sub-Commissioners were, as I was not before them, but the appeals were heard in Dublin. Of course the rents had been much reduced by the Sub-Commission Court. The valuer's report put the fair letting value very much in excess of the judicial rent. In each case, the moment I got the valuer's report (which was at the end of the case, when, you have to look very hastily at it, in order to find the statement as to the fair letting value) I looked to the top column in which there is "Improvements;" there were five cases, and in four out of the five there were "Improvements, none." I at once said, "That being so, there is no deduction to be made from the fair letting value." "Oh, but," said the Chief Commissioner to me, "there must have been some improvements;" and, accordingly, the rent was fixed by them on appeal in each case slightly in excess of the rent fixed by the Sub-Commissioners, but far and away under the rent that would be fixed by the Court valuer, although I could not see (nor did his report indicate) why there should be any deduction made from it; these were cases from the county Cavan, on the estate of a man named Sankey; I cannot give the tenants' names.

1629. You did not happen to perform that sum, which you performed just now, in order to ascertain how the ultimate decision was arrived at?

No, I did not know of that process then, or I would have tried it.

1630. That is another of the reasons which make you say that it is a very unsatisfactory Court, is it not?

Yes.

1631. That is to say, that it appears to evolve out of its inner consciousness evidence of existing improvements, when there was no evidence of any whatever?

Yes; the valuer's report stated that the improvements were "nil," and the evidence was to the same effect, but the answer of the Chief Commissioner was, as I have said, that there must be some improvements: that is to say, that there must be a certain allowance made.

1632. Earl of *Pembroke and Montgomery.*] Has not Mr. Litton announced that he always allows something for the interest or the occupancy right?

I believe he has, but I do not know for certain.

1633. *Chairman.*] Might not it be possible that in this particular case, or in any cases of that description, when the court valuer puts in "Improvements, none," that the farm may have been very much run out, instead of being improved?

Of course it might. I think the only information that the valuer is given before going on to a farm is simply the rent and acreage, and he hears nothing of the history of it. I do not know whether he speaks to the tenants as to the improvements, but I believe he does. I believe the tenant generally is with him. I do not know as to that, but as to the way of ascertaining how it has been treated, he has to find that out for himself by his own eyes; it may have been very much run out.

1634. It is possible that not only might there be no improvements, but that absolutely the land and buildings had deteriorated, is it not?
Yes; I never knew the Chief or the Sub-Commissioner yet in cases where buildings are deteriorated to make any allowance in favour of the landlord, although the fact that there was deterioration was often proved.

The Witness is directed to withdraw.

Mr. HUNT CHAMBRE, called in; and Examined, as follows:

1635. *Chairman.*] I THINK you are a Magistrate of the county Tyrone, are you not?
I am.

1636. And you are an agent for estates?
Yes.

1637. Where are the estates for which you are agent?
In Tyrone, Antrim, and Armagh.

1638. Have you yourself any experience of farming?
Yes; I have a good deal.

1639. Where has that been gained; in what province?
Ulster, in county Tyrone, principally, and in Armagh.

1640. Have you had much experience of the working of the Land Act?
I have.

1641. Did you anticipate at all that the reductions would be anything like what they have been?
Certainly, I did not.

1642. From your knowledge of the value of land, do you think that the reductions are at all fair?
Sometimes very unfair, I think.

1643. Do you think people are dealt with by the Courts in the matter of reduction who have their rents really below the value already?
Yes, I think some whose properties always have been considered very reasonably and low-rented have been dealt with just as severely as those who have been rack-renting.

1644. Have you had any experience of a property or properties on which the rents have been reduced, and that had been valued some time not very long before the passing of the Act?
Yes; Lord Massereene's property, in the county Antrim.

1645. By whom was that valued?
Mr. Murrough O'Brien.

1646. And having the valuation of Mr. Murrough O'Brien put upon it, have the rents been placed lower than that valuation?
They have.

1647. At what time was that valued?
That was in 1877 or 1878.

1648. Times were not particularly good just about that time, were they?
They were not, and 1879, which came immediately after, was a most disastrous year.

1649. Would you say that the times, in 1877, from your recollection of the district, were about the same as the present, or worse, or better?
I think they were better in some respects, but for stock farming they have never been better than at present.

1650. They were better in 1877, when the valuation was made?
In some respects I think so, but we have had some very bad seasons since, which

which have injured tillage farmers much more than the rent. Flax, which is grown much in Ulster, has greatly fallen in price, but cattle have risen, so that grazing farmers are well paid.

1651. I may take it that you think a valuation struck in 1877 would be much the same as what the same man, if he was acting fairly, would strike now?
Yes, I think so, except for small tillage farmers.

1652. Have you found any difficulty with regard to improvements that are claimed by tenants, as to which we have had a good deal of evidence?
Yes, very much difficulty. The tenant, as a rule, swears to a very large amount of (so-called) improvements; sometimes the evidence is true, but very often it is not, and the landlord has no means at all of refuting it.

1653. Are they allowed to spring evidence upon their landlord before the Courts?
Yes; though we serve notice on them to give particulars of what they mean to claim for improvements, they are allowed by the Sub-Commissioners to improve upon that again, and to swear to other things that were not given in the list of improvements. That occurred quite lately with me in the county of Antrim.

1654. Have you found it impossible, in acting for the landlord, to rebut such evidence?
Certainly.

1655. What is the use of the application to the superior court if tenants are allowed, after having sent in their claim for improvements upon that application, to put in a fresh claim?
It is perfectly useless and only misleading.

1656. Do you think it would be necessary, in order to make the Act fair, that the statement of improvements to be claimed for should be made upon the originating notice?
Certainly. We should then know what is claimed, and be able to test the accuracy of the tenant's claim.

1657. Have you been kept waiting for trial when you have been down before different Sub-Commission Courts?
Yes, a good deal.

1658. Is that the cause of a very great expense?
It is a cause of very great expense and annoyance to the suitors on both sides.

1659. Have you any suggestion to make by which such a difficulty might be got over?
I think when a large number of notices have been served from the same property and neighbourhood, they should be listed together for hearing at same time, instead of, as at present, listing a few cases each from a number of properties, having several sets of lawyers present waiting their turn, each being uncertain when they may be called.

1660. "Try a property," do you say?
Yes, or try all the cases from a property.

1661. The property might possibly lie in a very scattered way in the same county even?
Then they could only take those in the neighbourhood in which the Commission sat.

1662. Would you like for the Commission to take all the cases listed for a particular district when they come there before they move away?
Certainly, it would be a great convenience and saving.

1663. Would it save great expense to the landlord?
It would.

1664. Would it save a great expense to the tenant?
It would.

1665. Would it save great expense to the Land Commission?
I think so, but I do not think they want to save expense.

1666. Why do you not think that they want to save expense?
I believe the Sub-Commissioners are very well satisfied with their pay, and wish it to last as long as possible; recently I received notice of trial for 26 cases in Antrim, to be heard on a Monday I was there at 10 o'clock, and was then informed the Court would not sit until one; my cases were not reached that day the Court did not sit until one o'clock the next day, when the cases were not reached either; the Court did not sit the next day at all, or until one o'clock the fourth day.

1667. Was any reason given why the Court did not sit earlier?
We were not told of any reason, but simply that they would not sit until then.

1668. Were they out viewing the land, or anything of that sort?
I do not think so.

1669. Do you think it was mere laziness on the part of the Court?
I think that they do not want to get through the number of cases too quickly.

1670. Is there any fear that their occupation is likely to come to an end?
I think so in some counties; I think, judging from the list and from the short time in which some cases have come forward after the notices have been served, that the Antrim list must be pretty nearly exhausted, or at least that it must show signs that it will soon be exhausted.

1671. As to records, we have evidence that no record is kept. What is your practice as an agent; do you keep a record of the cases that come before the Court?
Yes.

1672. Do you anticipate that at the end of the 15 years the record you keep will be very useless; of course, we do not deny that it will be useful to some extent, but do you think that it will be sufficient evidence?
The record of cases which I settle out of Court myself will be of use; but I could not have an accurate record at all of those that are decided in Court, because, although I can see the nature of the farm, I do not know what the Commissions make allowance for.

1673. You do not know how the decision is arrived at?
Not at all.

1674. Therefore, the record you put in will be very much a record that will bear upon the face of it evidence merely that the rent has been fixed at so much?
That is all we can tell.

1675. But you will have no guarantee that the improvements claimed then and allowed for then, may not be allowed for over again?
Certainly not. We have reason to believe that they may be, or will be, because from the nature of the evidence given by tenants, we know they will bring up anything of the kind, or some of them will, if they get the opportunity.

1676. I suppose you think that to render the Courts fair in the future it is an absolute necessity to have a record kept by the Court itself?
I think so.

1677. Do you think that there would be any difficulty in that?
I do not think so. I think if the Sub-Commissioners were instructed to do so, there would be very little difficulty in it. They profess to take notes as they go along, and those notes ought to be sufficient record afterwards.

1678. You

1678. You have farms, I have no douht, that you have had to deal with, that vary in the quality of the land, have you not?
Yes.

1679. Is there any evidence at all of the different value put upon the different qualities?
None whatever.

1680. Does that not render it much more difficult for you to arrive at a decision as to whether you should appeal or not?
Yes, it does.

1681. Have you appealed in many cases?
Yes, a good many.

1682. Do you find that it produces a satisfactory result?
The appeals which I have lodged have not yet heen heard.

1683. Have you had to deal with any cases of reclamation?
Yes, there have heen cases in Court where large claims have heen made for reclamation.

1684. By the tenant?
By the tenant.

1685. How have those claims heen dealt with?
We only know the bulk rent fixed; we do not know on what ground it is fixed, or for what allowance has heen made.

1686. You must have formed some judgment from knowing the land yourself; do you think a fair rent is put upon reclaimed land, making, of course, allowance for the outlay of the tenant, hut sufficient to give a fair remuneration to the landlord?
When the farm has heen partially reclaimed it is very hard to know what the Commissioners put on the reclaimed portion, hut judging hy remarks passed during the inspection and hy decisions given on farms entirely reclaimed, I am satisfied they do not put a fair rent on reclaimed land.

1687. I suppose you have had cases where a tenant has run a farm out?
Yes, a good many.

1688. Have you found that the rent has heen reduced consequent upon his misconduct?
Yes, I have.

1689. If the arahle land upon his holding was allowed to go into had or waste grass, would the Sub-Commissioners take that into consideration?
Yes, I believe the landlord would suffer for that.

1690. A holding that was suitahle for tillage, and possihly not suitahle for grass, would he shewn to the Suh-Commissiouers as a grass holding; is that what you mean?
Yes, there are some large farms I know which have heen kept principally for grazing, and which, from utter neglect, have got into a wild state; the rent fixed on these portions, so far as I can judge, is only 5 *s.* or 6 *s.* an acre; if properly managed it would have heen worth three or four times that. I also know instances where ground only suitahle for meadow has heen hroken up and the rent reduced very much in consequence. In other words, a premium given for bad farming.

1691. I suppose you have attended the Suh-Commissioners when they have heen going over the farms?
Yes, I have been out with them five times.

1692. And you have pointed out the boundaries, I suppose?
Yes.

1693. Have you ever come across cases where the tenant has tried to make

out that the good land has been smaller in quantity than it really was, and that the bad land has been larger in quantity?

Perhaps I may explain it better in this way: they will tell the Commissioners on the ground "it has been all like that," pointing to the bad portion; and that they have made the good portion what it is.

1694. Would it not be possible that the Sub-Commissioners might, in hurriedly viewing the farms, be shewn the bad portion, and not be shewn the good?

I do not think that could occur if I was out, or had anyone out with them.

1695. Certainly; but I suppose you have not always attended?

I have always sent my assistant, if I did not go myself.

1696. I will put it to you in this way: I believe it is not usual for the agent to attend the valuer of the Appeal Court when he goes over the farms?

Not always.

1697. How is it possible for the Appeal Court valuer to know the boundaries, and to see the whole of the best part of the farms, under such circumstances?

I have not had the Appeal Court valuer yet, and I consider the agent should be with him.

1698. Would it be possible, without your attendance, for him to do so?

Certainly not.

1699. Therefore, is it not necessary that you should have information when he is coming down?

Certainly.

1700. Of course, you know that the practice in your part of the country is that it is not usual to let the landlords know?

In the only case that I know particularly about, I think the agent got notice two days before.

1701. I suppose the decisions given by the various Sub-Commissions have varied very much?

Very much.

1702. And the reductions are not at all upon the same scale, are they?

By no means.

1703. Is not that very much against making settlements out of Court?

It is very difficult to make settlements in consequence of that.

1704. Do you think that it is likely to produce fresh agitation in the future?

Yes, I certainly think it is. I have not got a map, but I could send you one (I have a little rough sketch here), by which I could show you instances of that. There are three farms; that one (*pointing to the sketch*) was examined by one set of Commissioners, and the rent fixed at 17 *s.* 6 *d.* per acre; this was examined by another set, and the rent fixed at 17 *s.* 6 *d.*; here is one lying between them, as to which I attempted to settle with the tenant on the basis of the former decisions immediately before the visit of a new set of Sub-Commissioners; it is a better farm than this, and equal to that. The tenant offered me 16 *s.*, and the rent that the Commissioners put it at was 11 *s.* an acre, consequently it is utterly impossible for me to make a settlement on that estate again. Here is another case. This is a public road, and here is a farm the fair rent of which was fixed by the second set of Commissioners at 17 *s.* 6 *d.*; here is one the rent of which was fixed by Mr. Davidson at 13 *s.*; and here is one the rent of which was fixed by Mr. Meek at 15 *s.* That is a better one than this, and has turbary connected with it, but either of them is better than this. I will send you a sketch, and number the different farms, in order to illustrate my evidence.

1705. The evidence given in those cases, I suppose, was much the same?

Pretty much the same.

1706. Yet

1706. Yet they varied to that extraordinary degree in the reductions?
Yes.

1707. I suppose the two men who were situated on the worst farms, one on either side of the man who pays 11 *s.*, will think they are very badly treated?
They are both very much aggrieved about it now.

1708. Although, I understand, they got a substantial reduction?
Yes, they did.

1709. Have you any experience as to the tenants swearing that they have made so much drainage?
Yes, a good deal.

1710. Is that evidence generally accepted?
As far as we see, it is; it is all taken down by the Commissioners and acted upon. They profess when going over the ground to look for the drains, but they merely look at an outlet or two that may be shown them; that outlet may be from 20 perches of drain, or it may be, perhaps, from 1,000 perches, as they claim it.

1711. And it is not tested for them?
No, by no means.

1712. Nor what class of drainage it is?
Not at all.

1713. It is very often the case, I believe, in Ireland, that the tenants have made drains that are very soon closed up; is it not?
Yes; as a rule they make them across the fall instead of with it.

1714. Earl of *Pembroke and Montgomery.*] Does not the landlord or his agent give counter-evidence upon the point?
The tenants will put in a claim, perhaps, for 1,000 perches of drains, and we cannot tell where they put them. Perhaps we only get the notice three or four days before the Court meets; if we had the notice along with the originating notice then we could test the claim.

1715. *Chairman.*] Would not four days be long enough to go and cut a drain across to see whether it ran the way it was described?
Certainly, if the claim is a small one; but when they claim, as some of them do, 2,000 or 3,000 perches of drains, I do not think the tenant would or could ever show them to you, and you would have to test the farm all over to see whether the drains were there or not.

1716. In fact, you would destroy the farm in looking for them, would you not?
Yes.

1717. Up to the present, I suppose, acting as agent, you have made the tenants keep the outlets of the drains clear?
Yes, as far as possible.

1718. I am talking of up to the passing of the Land Act of 1881?
Yes, when we discovered neglect, but over a large property a great many things will escape notice.

1719. You did enforce that as far as you could?
We did.

1720. Have you any power to enforce that now?
None whatever.

1721. Do you think the result of that will be that the drains will be very likely to get choked?
No doubt they will.

1722. And the tenants who live higher up will suffer serious damage?
Yes, I know of cases of that kind at present.

1723. What do you think will he the upshot of it?
I think a great many of those main drains will close up after a time, and that some of that which is fair ground now will become swamp.

1724. Therefore you think the Land Act in that respect will have the effect of deteriorating the land of Ireland?
Yes, I think it will.

1725. Running it back into swamp?
Yes; the landlord has not now any power to compel the tenants to clear the main drains, and I know several places already where the ground is being ruined in consequence.

1726. What class of evidence do the tenants' valuators generally give?
They very often value the ground at somewhere about half its value. The tenant and his valuator generally go pretty much about the same as regards the valuation.

1727. I suppose it is impossible for you to know whether any point of law has been taken into consideration or not by the Sub-Commissioners?
We cannot tell at all.

1728. And, as you say, the tenants' valuation is perfectly unreliable?
Perfectly so.

1729. Have you produced valuators yourself?
I have not.

1730. You have left it entirely then to the Court?
I have left it entirely to the Court. I think it is utterly useless to produce them.

1731. Marquess of *Salisbury*.] You do not think the Sub-Commissioners pay any attention to their evidence, I gather?
I think not.

1732. So that it is a mere waste of money in your opinion?
I think so. In fact my experience is that, judging from other cases beside my own, whether you leave the matter to themselves, or produce valuators and witnesses, the result is the same.

1733. Have you any idea how they arrive at their results?
Not the smallest.

1734. Has anybody that you know ever had any idea as to that?
Yes, but it is only surmise.

1735. *Chairman*.] From your own practical knowledge of land, do you think that the results are satisfactory?
No, certainly not.

1736. Are they, in your opinion, based upon any principle of justice?
I do not think so.

1737. Is it usual to value the land in weather in which it can be properly valued?
I have been out with the Commissioners when it poured with rain the whole day.

1738. From your experience would it be utterly impossible to judge of the value of land under such circumstances?
It is utterly impossible to judge of the value of land in that way, and as a matter of fact I had to appeal all the cases that were seen and decided upon that day.

1739. Do the Sub-Commissioners go over the land together, or sometimes one in one direction and the other in another?
I have found some of them go together and appear to be very painstaking indeed;

indeed; and I have found others separate, one taking one farm and another another.

1740. Have you found that the Sub-Commissioners have deducted for drains that have been made lately, that is to say, since the originating notice was served, and which have not in any way benefited the land?

Yes, they allow for any drains sworn to up to the day of the hearing, although it is impossible for them to have had any effect upon the appearance of the land at the time; the land then would be valued as if wanting draining, and the landlord would have to pay for the drainage.

1741. Earl of *Pembroke and Montgomery.*] There is nothing to prevent the tenant taking them up again the next day, and selling them, in your opinion, is there?

They could take up tiles again, if so inclined.

1742. *Chairman.*] I suppose there is a great difficulty in testing alleged improvements?

There is great difficulty. It is almost impossible to test alleged improvements.

1743. Have you any statement to make upon that point?

I have called the attention of the Commissioners when inspecting the land said to be drained, and so many perches of drains made in it, to the wet state of the ground, and to the marks of the feet of cattle, showing every sign that the land was not drained, and that it was not dry, but as far as I could tell there was no notice taken of my remarks. I think that it would be but fair to the landlord and tenant, for the Court when giving judgment, to state, "We find this man's story was incorrect, about so many perches of drains, and we do not allow the claim."

1744. Have you known sometimes the drains to be an injury rather than a benefit to the land?

Yes, I have found it so from the work being badly done.

1745. Have they been allowed for as improvements?

Yes, I believe so.

1746. Simply because they were drains?

Yes, I believe so.

1747. Do Irish farmers, as a rule, understand drainage?

Very many of the small farmers do not understand it at all.

1748. Was there much drainage on those estates that you had to do with before the passing of the Land Act?

There was.

1749. Was that done under your supervision?

Some was done under the Board of Works and properly inspected, but the tenant very often allows the drains to get out of order by neglecting the outlets, and he thinks the landlord should keep them up for him as well as getting him the means to make them.

1750. As to fences, of course you will admit that an external fence being kept in a good condition must be a benefit to the holding; but it is the same thing with reference to internal fences?

Certainly not. As an instance, I was on a farm last week where the internal fences had been so altered as to be a positive injury to the farm, soils of totally different kinds (clay ground and cut out reclaimed bog), which had been in separate fields, being thrown together, though not suitable for the same kind of crops or tillage.

1751. In that case were the fences allowed as improvements?

It has not come into the Court yet. I merely give it as an instance; there are many cases like it. If it does come into Court I believe all those fences will be allowed.

1752. Internal fences are a positive deterioration of a farm, you think?
Sometimes; particularly when made crooked or the fields too small.

1753. And in your experience before the Courts, have the internal fences been taken into consideration?
So far as I am aware they take all fences into consideration.

1754. Whether they are taken up or put down?
Yes, so far as I am aware.

1755. Therefore, if a tenant had put up a fence on a farm which is before the Courts now, and in the next 15 years had taken it down, and put it up elsewhere, he might be allowed for it now by the Court, and you think that it is not improbable he might be allowed for it again?
There is nothing to prevent it at all.

1756. And if the present system goes on long enough, and he were to remove fences enough he might eventually find himself without having to pay any rent whatever, might he not?
They have sworn up to that amount in Court occasionally; I have heard them do so, and heard Mr. Commissioner Greer tell them so.

1757. What is it that you have heard him tell them?
"You have now sworn to a greater amount of improvements than the rent you are paying altogether."

1758. In your part of the country is the reclamation of waste land of an expensive character?
It is not. Reclamation in the parts of the county Antrim that I am connected with is generally of a sort of wild ground, and the way they go about it is to level it slightly, and set potatoes in the first year, raising the stones out of the furrows. They call that reclamation.

1759. What sort of claim do they make for the reclamation of land which they crop the first year?
From 8 *l.* to 15 *l.*

1760. Is that a ridiculous claim?
It is.

1761. What sort of reduction do they get for it?
I cannot tell that.

1762. Do they generally get a reduction for this kind of reclamation?
I believe so, but, of course, I cannot tell.

1763. Is it something like the claim that is put forward as to the expenses that they have been put to in bringing it about.
Yes, I believe so.

1764. In fact, you really have no line to guide you, I suppose?
Not the least.

1765. In cases where cut out bog has been let to tenants, we have evidence from a legal Sub-Commissioner that if the tenant has cut out the bog, and has reclaimed the land in doing so, he thinks his rent should certainly not be reduced, as he would be paid twice over for the same improvement; is it your experience that the rents in those cases have been reduced?
I think the rent is reduced, because he cuts out the bog, and makes a swamp of the place; he does not reclaim it. When the Commissioner comes round the tenant shows that as so much swamp, and he gets it put down, I have no doubt, as of no value, in the Commissioners' return.

1766. At the same time, it is the fact, is it not, that he has produced the swamp himself?
Exactly; he has cut away the bog, and made a swamp, for which he will claim exemption from rent as of no value, though he made it so; and if he has reclaimed a portion again he claims reclamation for that.

1767. Therefore,

1767. Therefore, he has a double gain, and causes a double loss to his landlord by what has been an absolute gain to himself; is not that so?
Yes.

1768. The turf of the hog has been cut out for firing, and sometimes for sale, and the reclamation itself is paying him, I suppose, as a rule?
Yes; I think when he has turbary on his farm he has no right to anything at all for the cutting out of the bog or for reclamation; on the contrary, it has been a great benefit to him.

1769. In your part of the world were the tenants ever allowed to take a piece of cut-out hog for a certain number of years to reclaim it?
Yes; in county Armagh it was the common practice there to set portions when there was a large tract of bog cut out; parties have come in from other properties, and taken a fresh portion altogether as a farm for seven, ten, or twenty years, as the case may be, at 7 *s.* 6 *d.* or 10 *s.* an acre, the understanding being that, at the end of that time, it should be increased to a reasonable amount, perhaps 12 *s.* or 14 *s.* The Commissioners have recently reduced one of those rents set at 10 *s.* seventeen years ago to 5 *s.* 6 *d.*

1770. Do you say that the Commissioners reduced the rent on one of those bogs that was set to a tenant as a cut-out hog unreclaimed, at 10 *s.* an acre?
Yes.

1771. Do I understand you to say that they reduced that same hog, when it was reclaimed, to 5 *s.* 6 *d.* an acre?
Yes.

1772. Speaking roughly, what do you consider that reclaimed bog would be worth an acre now?
There would be no difficulty in getting 16 *s.* or 17 *s.* for it if it were in the landlord's hands.

1773. Do you think it was fairly let when it was originally let at 10 *s.*?
I think it was. The tenant was paying 13 *s.* for it; it had been raised from 10 *s.* to 13 *s.* at the end of the term agreed upon.

1774. And the Sub-Commissioners reduced it to below what it was when it was let originally?
Yes; and I might mention that just one week before the sitting of the Commission which did that, I set some more cut-out bog at 10 *s.* per acre within 50 yards of that farm.

1775. Did you set that as a future tenancy?
Yes, there were several applicants for it, and I gave it to the man adjoining.

1776. Did you produce that fact in evidence?
I did not.

1777. Would not that have been good evidence?
I do not think it would have been of the least use.

1778. Did you have any conversation with any of the Assistant Commissioners as to the way they valued cut-out hog?
Yes, I did.

1779. What did they tell you?
One told me that he put 6 *d.* an acre on it.

1780. Did you yourself carry out reclamation on any of those estates?
Yes, I did.

1781. Would you mind telling the Committee in what way you carried it out?
In order to reclaim, as I understand it, and as I would do it myself; the ground ought to be drained, levelled, and sub-soiled, and that could be done at from 8 *l.* to 10 *l.* an acre.

1782. When you carried out this reclamation did you raise the rent to pay you a per-centage upon the expenditure?
What I did myself was in my own hands and remains so. I did not reclaim any to hand over to the tenants. It would be worth from 16*s.* to 20*s.* per acre.

1783. Changes, I believe, have been pretty frequent in your locality of the Sub-Commissioners?
Yes, they have.

1784. Do you find that that is injurious?
Very much so.

1785. It produces diversity of decision, does it not?
It does.

1786. Do you find it injurious in the fact that the different men who come as Sub-Commissioners have to learn their work and the district?
Yes, coming into the district first they merely see the ground; they do not know the benefits that it may have from its position, or anything of that kind; after they are there for a time or two they get into the way of it, and are more inclined to do what is fair; but immediately they are inclined to do so they are changed, and a fresh set sent.

1787. Have you noticed any particular time when the Sub-Commissioners are chaoged, as if it were, from the fact that they were acting in a more liberal way to one party or the other?
Yes, I think so. I may state that that has been so particularly in county Antrim; I think the Commissioners are changed there immediately that Mr. Greer, the legal Commissioner, finds they do not do what he wants.

1788. So that in your opinion in the country generally, if the Sub-Commissioners gave decisions not reducing rents as much as heretofore, they would be likely to be removed?
Certainly.

1789. That was the opinion of the people in your part of the country, you think?
It was.

1790. We have had evidence to-day to the effect that that has kept the people in an unsettled condition; do you think that it does so?
Yes.

1791. Is there any additional value put upon holdings that are near towns, do you think, by the Sub-Commissioners?
I do not think so. In Tyrone we urged that very much upon the Sub-Commissioners, but they appeared to treat it with contempt.

1792. Then as to accommodation holdings, have you had anything to do with them?
Yes, in county Armagh a good deal. The people on the property I am concerned for are all either labourers or mechanics, or dealers of some sort; the competition for the ground has always been very great, and for any little patch of cut-out bog, or vacant ground, there was no end of people applying immediately. The consequence was that rent was high on that property. The people themselves telling you that it was merely for accommodation they want it, or as a home for their wives and families, because they did not like to have them with them in English towns; a large amount of employment was also given by the landlord. However, there was not the least allowance for anything of that kind; it was all treated as agricultural ground.

1793. And the rents reduced?
The rents reduced very much.

1794. In your cases where the landlord was proved to have built the houses did you find that any additional rent was put on for them?
I did not see any difference in the decisions.

1795. We

1795. We have had a good deal of evidence about the tenant-right; do you think that, in fixing the rent in the north, the tenant-right is taken into consideration?

I really do not know what they do about that, because on the Armagh property, with which I am connected, there is no tenant-right. In Antrim there is a very high tenant-right, and in Tyrone a very fair tenant-right; but I do not see any difference in the decisions.

1796. Is Griffith's valuation considered high or low in Antrim and Tyrone?

In Tyrone I think it is not altogether; but as a whole it is not an unfair guide as to the rent, though I often find cases where it is too high, and as often where it is too low.

1797. That is in Tyrone?

In Tyrone. In Antrim it is low, and in the portion of Armagh with which I am connected it is very low, because a great portion of the land has come from bog.

1798. I think in the evidence you gave earlier you said that the Commissioners seemed to go by the valuation; where the valuation is a fair guide do they go by it then?

I think they are guided a good deal by it.

1799. Where it is a fair guide, you mean?

I think they are, whether it is high, low or fair.

1800. Are they equally guided by it where it is very low?

I think so, except where there is something very glaring in the case.

1801. They are not, you think?

I think they are, except where the valuator's evidence or other matters especially calls their attention to the matter. I do not think that anyone at all attempting to put a value on land could go by the Government valuation in Armagh; at least the part I am in.

1802. In Tyrone do the Sub-Commissioners fix the rents at all on Griffiths' valuation?

Yes, they are very close to it, or they were last time in Dungannon.

1803. Did they go below it?

Some a few shillings below, and some a few shillings above; but I think in the last couple of hundred cases there was very little variation from the valuation.

1804. Under those circumstances, then, you approve of the way in which they fix the rents; you think that they fix them on the fair value according to that evidence?

In Tyrone, I think, the gross Government valuation, as a whole, is a fair guide as to rent; however, there are occasionally cases where it is not so at all; but I believe it rules the Commissioners in all cases, whether high or low.

1805. If the Sub-Commissioners have fixed the rents at Griffith's valuation, or near it, and you consider it a fair value, then you consider that the Sub-Commissioners' decisions are fair?

I am merely talking of the last set of decisions at Dungannon, and from my experience of Griffith's valuation in that neighbourhood. Then looking at the newspaper report of those decisions in a general way, I would say they were fair, but not having seen the lands or known anything of the particulars, I might be quite wrong in many of the cases, as there may have been many of them where the Government valuation was too high or too low. It is impossible to give an accurate opinion where you do not know all the circumstances.

1806. Then is it one particular Sub-Commission that you refer to?

Yes, else I should not have appealed from a number of the former decisions.

1807. You approve of the decisions of that Sub-Commission then, I understand?
I will tell your Lordship what is passing with me. I am at present settling with Lord Ranfurly's tenants in Tyrone, valuing the land myself, and the valuation in many cases comes very close to the Government valuation; sometimes a little over and sometimes a little under; but, at the same time, I have many cases over the Government valuation.

1808. Then I do not understand you; do not the Sub-Commissioners under those circumstances place the rents a good bit below Griffith's valuation?
No, they do not; in the last set of cases they have not done so.

1809. Then according to your statement, the arrangements you have made out of Court are much on a par with the decisions of the Sub-Commission?
They are pretty much the same, in many cases, but there is more variation, as I am not guided by the Government valuation.

1810. That is in one county?
That is in one county; and it is only one set of Commissioners.

1811. But as a rule have you found that the Sub-Commissioners in other counties have fixed the rents fairly at all?
No, I have not; they are not evenly fixed.

1812. Are they fixed below what you consider a low value?
They are.

1813. Much below?
They are; at least many of them are.

1814. Then in dealing with this subject you have only found one Sub-Commission that you think have acted fairly?
I refer to the last set of decisions that were given at Dungannoo; I have never been on the land myself, and of course I only draw the inference in a general way from the valuation on Lord Ranfurly's property that Griffiths' valuation comes to nearly about what I think is fair. I have not been on the other properties, and know nothing of them; there may be many unfair decisions amongst those I refer to.

1815. Did both Sub-Commissions that you had to deal with in Tyrone act upon the same lines?
No.

1816. Did one Sub-Commission then put the rents at Griffith's valuation, and the other put them a great deal below Griffith's valuation?
Yes; I stated (or, at least, I intended to do so) that the rents fixed during the wet time were all considerably under the valuation, and quite too low.

1817. Have you had any sales of the tenant's interest taking place since the Act was passed?
Yes, in Antrim.

1818. Do you think that the prices given have increased since the passing of the Act?
I think so; I have only the particulars of one, and as to that I speak from memory; that is the case of a small mountain farm of about 16 acres; the rent was reduced from 7 *l.* 10 *s.* to 5 *l.* 17 *s.*, I think, and the tenants' interest sold for 210 *l.*

1819. Would it have sold for as much money before the passing of the Act?
It was bought upon the old rent, I think, about three years before at about 20 *l.* less.

1820. Therefore, the outgoing tenant has subtracted that much from the landlord's pocket and put it into his own, has he not?
Yes.

1821. Do you think that that would be the case very generally over Ireland?
Yes,

Yes, and particularly so in county Antrim, for the tenant-right is higher there than anywhere else that I have to deal with.

1822. If the rents are reduced of course the landlords will lose so much; but the tenants when they choose to go out will gain very largely by the sale of the increased value of their tenant-right; is not that so?
Certainly.

1823. And as a rule, do you consider that where you have had to deal with the Sub-Commissioners that rents have been reduced on an unfair scale?
I do.

1824. Do you think that a great number of landlords will be ruined?
I do; I know it.

1825. Is property in Ireland now saleable?
I do not think so.

1826. And how are these ruined men to get out of their difficulties?
I really do not see.

1827. Do you think that the Act has had a quieting effect upon the people, or the reverse?
A great many of the people simply look upon what they have got as an instalment of what they are to get. I think, when this operation is through, that a certain class of people will agitate for something more.

Ordered, That this Committee be adjourned, *sine die*.

LIST OF APPENDIX.

Appendix A.

Appendix B.

Appendix C.

APPENDIX.

Appendix A.

PAPERS handed in by Mr. *G. H. Smith*, 26 April 1883.

COPIES of Forms with regard to Improvements that are proved before the Sub-Commissioners.

Irish Land Commission.

Name of Landlord, Col. William Cross.
Name of Tenant, Joseph Warden.

County of Armagh.
Record No. 1,278.

Schedule of Improvements.

Tenant's Improvements which have been taken into consideration.	Landlord's Improvements which have been taken into consideration.
Tenant-right, which includes all improvements -	None.

26 May 1882.

(signed) *T. Meek*, Assistant Commissioner.

(A true copy.)
(signed) *Wm. Smith*, Registrar.

Irish Land Commission.

Name of Landlord, Col. William Cross.
Name of Tenant, John Fluke.

County of Armagh.
Record No. 1,283.

Schedule of Improvements.

Tenant's Improvements which have been taken into consideration.	Landlord's Improvements which have been taken into consideration.
Tenant-right, which includes all improvements except a portion of buildings.	Part of buildings.

26 May 1882.

(signed) *T. Meek*, Assistant Commissioner.

(A true copy.)
(signed) *Wm. Smith*, Registrar.

Irish Land Commission.

Name of Landlord, Col. William Cross.
Name of Tenant, Joseph Warden.

County of Armagh.
Record No. 1,279.

Schedule of Improvements.

Tenant's Improvements which have been taken into consideration.	Landlord's Improvements which have been taken into consideration.
Tenant-right, which includes all improvements -	None.

26 May 1882.

(signed) *T. Meek*, Assistant Commissioner.

A true copy.)
(signed) *Wm. Smith*, Registrar.

Land Law (Ireland) Act, 1881.

Particulars of Decisions pronounced by Messrs. *FitzGerald, Comyn,* and *Mahony,* in Armagh, February 1882, on the Estate of *F. R. Cope,* Esq.

Tenants' Names.	1. Gross Poor Law Valuation.	2. Valuation given for Tenant.	3. Valuation given for Landlord.	4. Total of Columns, 1, 2, and 3.	5. One third of Figures in Column 4.	Judicial Rent.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
J. Magennis	13 15 –	6 18 9	13 17 8	34 11 5	11 10 6	11 10 –
J. Cullen	7 – –	5 – –	7 1 9	19 1 9	6 7 3	*6 11 –
Ditto	16 – –	7 5 3	14 8 5	37 13 8	12 11 2	13 – –
J. Sullivan	24 10 –	14 19 –	24 19 4	64 8 4	21 9 5	22 – –
Ditto	7 10 –	4 16 –	8 18 6	21 4 6	7 1 6	7 – –
R. Stothers	13 15 –	8 4 6	12 15 6	34 15 –	11 11 8	12 – –
W. Ward	16 – –	10 4 –	14 6 5	40 10 5	13 10 1	13 – –
Ditto	6 5 –	3 15 –	6 1 6	16 1 6	5 7 2	*6 – –
T. Weir	20 15 –	13 12 –	21 12 –	55 19 –	18 13 –	19 – –
W. Allen	15 – –	6 16 2	12 16 9	34 12 11	11 10 11	11 15 –
J. Reilly	5 5 –	2 2 6	3 15 3	11 2 9	3 14 3	3 10 –
R. Allen	6 – –	2 7 1	4 11 4	11 18 5	3 19 6	4 – –
R. M'Clelland	32 15 –	15 16 –	27 1 3	75 12 3	25 4 1	24 – –
G. M'Neill	5 10 –	2 6 6	4 9 3	12 5 9	4 1 11	*4 5 –
R. W. Orr	26 – –	15 – 6	24 17 10	65 18 4	21 19 5	22 10 –
W. Stothers	15 – –	7 17 4	14 14 11	37 12 3	12 10 9	13 – –
R. Weir	29 15 –	21 4 6	29 3 10	80 3 4	26 14 5	27 10 –
R. Castles	31 5 –	19 17 –	27 18 10	79 – 10	26 7 –	27 10 –
				£.	244 4 –	248 1 –
Showing in 18 cases a difference between "arithmetical" calculation plan, and "judicial" rent of only (out of which 19 *s.* 8 *d.* is accounted for in above three cases*)					3 17 –	—
				£.	248 1 –	248 1 –

* Old rent.

Particulars of Decisions pronounced by Messrs. *FitzGerald, Comyn,* and *Mahony,* at Castlederg, March 1882, on the Estate of the Misses *Echlin.*

Tenants' Names.	1. Gross Poor Law Valuation.	2. Valuation given for Tenant.	3. Valuation given for Landlord.	4. Total of Columns 1, 2, and 3.	5. One-third of Figures in Column 4.	Judicial Rent.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Hugh Hunter	14 5 –	9 10 3	16 8 2	40 3 5	13 7 10	13 – –
John Irvine	12 – –	9 15 –	14 – 4	35 15 4	11 18 5	12 – –
Charles Irvine	12 – –	11 5 –	16 14 8	39 19 8	13 6 6	13 – –
Samuel Watson	14 5 –	9 18 9	15 8 2	39 11 11	13 3 11	13 10 –
J. Glenn	9 10 –	6 – –	11 6 5	26 16 5	8 18 10	9 17 6
J. M'Cutcheon	9 – –	8 – –	13 4 8	30 4 8	10 1 7	10 – –
C. Irvine	9 10 –	5 17 –	12 17 1	28 4 1	9 8 –	10 – –
D. Watson	32 – –	19 8 –	28 6 4	79 14 4	26 11 5	27 – –
				£.	106 16 6	108 7 6
Showing in eight cases a difference between "arithmetical" calculation and "judicial" rent process, of only					1 11 –	—
				£.	108 7 6	108 7 6

PARTICULARS of Decisions pronounced by Messrs. *Wylie, Cunningham & Ellis,* at Castlederg, June 1882, on Estate of Earl of *Gosford.*

TENANTS' NAMES.	1. Poor Law Valuation.	2. Valuation given for Tenants.	3. Valuation given for Landlords.	4. Total of Columns 1, 2, and 3.	5. One-third of Figures in Column 4.	Judicial Rents.
	£. s. d.	£. s. d.	£. s. d	£. s. d.	£. s. d.	£. s. d.
M. Campbell - -	14 10 –	6 10 –	12 16 10	33 16 10	11 5 7	11 – –
J. M'Cafferty - -	21 – –	10 11 6	29 10 1	61 1 7	20 7 2	20 – –
				£.	31 12 9	31 – –
Showing a difference, on the only two cases heard, between "arithmetical" and "judicial" process of					- - -	– 12 9
				£.	31 12 9	31 12 9

PARTICULARS of Decisions pronounced by Messrs. *Wylie, Cunningham & Ellis,* at Dungannon, July 1882, on the Estate of *Jonathan Clarke,* Esq. (Trustee).

TENANTS' NAMES.	1. Poor Law Valuation (nett).	2. Mean between Three Sets of Valuations given for Tenants.	3. Valuation for Landlord.	4. Total of Columns 1, 2, and 3.	5. One-third of Figures in Column 4.	Judicial Rents.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Mary Murphy - -	8 5 –	7 4 –	9 12 10	25 1 10	8 7 3	8 10 –
W. Taylor - -	26 – –	21 9 7	29 3 –	76 12 7	25 10 10	27 – –
J. Lappan - -	21 5 –	20 17 2	25 10 –	67 12 2	22 10 9	24 – –
J. Quinn - - -	7 10 –	6 14 1	8 18 2	23 2 3	7 14 1	7 15 –
Wm. M'Kenzie -	40 5 –	34 – 4	44 2 –	118 7 4	39 9 1	40 – –
J. M'Kenzie - -	41 – –	33 – 3	43 14 6	117 14 9	39 4 11	40 – –
P. M'Elroy - -	25 10 –	21 19 11	24 8 –	71 17 11	23 19 4	24 – –
J. M'Kenzie - -	3 15 –	3 16 6	4 14 –	12 5 6	4 1 10	4 5 –
J. M'Kearney - -	20 5 –	15 6 –	23 13 –	59 4 –	19 14 8	19 10 –
J. M'Kenzie - -	15 – –	13 10 4	17 1 –	45 11 4	15 3 9	16 – –
F. Daly - - -	14 – –	13 12 4	16 15 –	44 7 4	14 15 9	16 – –
R. Gibson - -	20 10 –	17 12 8	22 7 6	60 10 2	20 3 5	20 10 –
J. Bradley - -	15 – –	14 10 –	17 2 6	46 12 6	15 10 10	16 – –
J. Murphy - -	15 10 –	14 16 7	18 10 –	48 16 7	16 5 6	16 5 –
£.	273 15 –			£.	272 12 –	279 15 –
Showing in 14 cases a difference between "arithmetical" and "judicial" process of (which would be reduced to 2 *l.* 6 *s.* 4 *d.* if 288 *l.* 5 *s.*, the "*gross*" valuation (instead of "*nett*") was inserted in column No. 1) - - - - - - - - -					7 3 –	—
				£.	279 15 –	279 15 –

PARTICULARS of Decisions pronounced by Messrs. *Foley*, *Davidson*, and *Meek*, at Ballybot, July 1882, on Estate of Earl of *Gosford*.

TENANTS' NAMES.	1. Valuation given for Tenants.	2. Valuation given for Landlord.	3. Total of Columns 1 and 2.	4. One-half of Figures in Column 3.	Judicial Rents.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
M. M'Cullagh	24 14 –	38 17 9	63 11 9	31 15 10½	32 – –
A. Marshall	28 19 6	36 14 1	65 13 7	32 16 9½	32 – –
A. Burns, senr.	8 16 –	14 3 5	22 19 5	11 9 8½	11 5 –
A. Burns, junr.	10 12 6	17 13 11	28 6 5	14 3 2½	14 – –
J. Fergus	9 5 8	17 4 –	26 9 8	*13 4 10	*18 12 6
J. Hogg	19 3 1	33 8 11	52 12 –	26 6 –	25 2 –
D. Conlon	12 8 6	26 5 8	38 14 2	19 7 1	17 10 –
G. Allen	5 1 6	11 1 5	16 2 11	8 1 5½	8 – –
R. Allen	17 2 6	34 – –	51 2 6	25 11 3	26 – –
D. Moffatt	14 12 6	26 9 7	41 2 1	20 11 –½	23 – –
G. Coyne	26 – 3	35 19 6	61 19 9	30 19 10½	31 10 –
J. Sleeth	3 12 8	5 – 5	8 13 1	4 6 6½	4 10 –
J. M'Keown	26 – –	46 4 2	72 4 2	36 2 1	39 – –
J. Armstrong	5 10 –	12 16 9	18 6 9	9 3 4½	10 – –
A. Dougan	20 – –	35 3 11	55 3 11	27 11 11½	27 10 –
H. Blair	28 10 –	41 7 6	69 17 6	34 18 9	34 15 –
F. Agnew	14 7 4	18 10 3	32 17 7	16 8 9½	16 – –
R. Marshall	36 15 3	53 18 1	90 13 4	45 6 8	45 – –
T. Corr	10 2 6	12 15 2	22 17 8	11 8 10	11 5 –
J. M'Dowell	21 7 –	29 6 8	50 13 8	25 6 10	24 10 –
A. Lee	9 4 4	11 13 9	20 18 1	10 9 –½	10 5 –
G. Porter	12 8 6	17 7 4	29 15 10	14 17 11	15 10 –
H. and T. Holmes	26 9 1	40 12 4	67 1 5	33 10 8½	35 – –
P. M'Connell	9 14 3	15 18 7	25 12 10	12 16 5	13 – –
			£.	516 15 –½	525 4 6
Showing, in 24 cases, a difference between "arithmetical" and "judicial" process of only 8 *l.* 9 *s.* 5½ *d.* (of which 5 *l.* 7 *s.* 8 *d.* is accounted for by buildings in No. 5 above)				8 9 5½	—
			£.	525 4 6	525 4 6

* Buildings, Landlord's.

PARTICULARS of Decisions pronounced at *Enniscorthy*, June 1882, by Sub-Commission, on which Professor *Baldwin* was a Member.

Rev. F. Thornton - - - - - - Landlord.
John Murnagh - - - - - - - Tenant.

	£. s. d.
Old rent	18 – –
Poor Law valuation	12 15 –
Valuation for landlord	19 10 –
Valuation for tenant	13 2 8
TOTAL £.	63 7 8

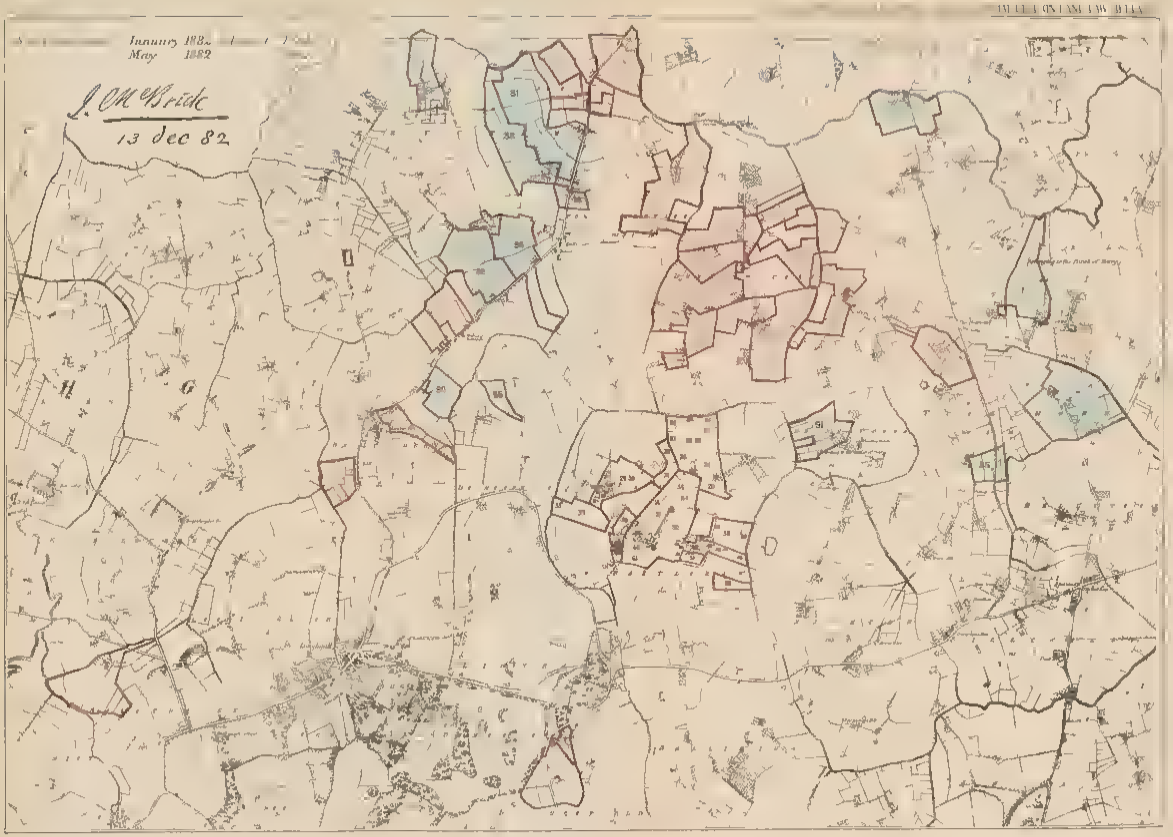
	£. s. d.
One-fourth	15 16 11
Judicial rent	15 15 –

(Like, pronounced in *New Ross*, April 1882, by like):—

General Redmond - - - - - - Landlord.
Philip Kelly - - - - - - - Tenant.

	£. s. d.
Old rent	24 7 4
Poor Law valuation	21 – –
Valuation for landlord	23 3 2
Valuation for tenant	18 6 –
TOTAL £.	86 16 6

	£. s. d.
One-fourth	21 14 1½
Judicial rent	21 10 –



COURT OF THE LAND COMMISSION.

APPEALS from Sub-Commissions Listed for Hearing at *Armagh*, on Monday the 11th day of December 1882.

APPEALS.—County of ARMAGH.

List Number.	Appeal Number.	Record Number.	TENANT.	LANDLORD.	Appellant.	OBSERVATIONS.
1	64	1,276	Thomas Donnelly	Colonel Wm. Cross	L.	
2	65	1,283	John Fluke	same	L.	
3	66	1,268	Thomas Houston	same	L.	
4	67	1,271	Thomas Speer	same	L.	
5	68	1,270	Robert Wilson	same	L.	
6	69	1,273	Henry Newton	same	L.	
7	70	70	Elizabeth Houston	same	L.	
8	71	72	James Brannigan	same	L.	
9	72	73	Thomas Knipe	same	L.	
10	73	71	Bridget Donnelly	same	L.	
11	74	1,275	John Henderson	same	L.	
12	75	1,282	Joseph Warden	same	L.	
13	76	1,281	same	same	L.	
14	77	1,279	same	same	L.	
15	78	1,278	same	same	L.	
16	79	87	John Hall	Wm. M'G. Bond	L.	
17	80	1,173	William Corvan	Mrs. Ellen B. Maziere	L.	
18	81	1,172	same	same	L.	
19	82	279	Christr. Hampton	same	L.	
20	83	278	William Turner	same	L.	
21	84	277	William Hampton	same	L.	
22	85	276	James Largey	same	L.	
23	86	275	Robert Sumerville	same	L.	
24	87	274	William R. Ferris	same	L.	
25	88	273	Robert Jones	same	L.	
26	89	1,324	James Delaney	Miss Mary Anne Quinn	L.	
27	90	1,323	same	same	L.	
28	91	1,322	same	same	L.	
29	92	110	Robert Gillespie	same	L.	
30	94	151	Thomas M'Kenna	Rev. Jas. G. Pooler, D.D.	L.	
31	95	283	Henry Kerr	Earl of Charlemont	L.	
32	96	93	Thomas Donaldson	Sir Jas. M. Stronge	L.	
33	97	90	Mary Hamilton	same	L.	
34	98	89	William Stitt	same	L.	
35	99	88	James Gray	same	L.	
36	100	91	William Livingston	same	L.	
37	101	527	John Anderson	Rev. J. Hobson, Trustee of Miss Johnston.	L.	
38	102	1,435	Nathaniel Craig	same	L.	
39	103	149	David Conlin	Earl of Gosford	L.	
40	104	149A	same	same	L.	
41	105	600	Robert Allen, jun.	same	L.	
42	106	600A	same	same	L.	
43	107	601	John Menary	same	L.	
44	108	602	David Moffett	same	L.	
45	109	603	John Hogg	same	L.	
46	110	603B	same	same	L.	
47	111	605	George Coyne	same	L.	
48	112	605A	same	same	L.	
49	113	606	Graham Allen	same	L.	
50	114	411	James M'Dowell	same	L.	
51	115	412	Thomas Holmes	same	L.	
52	116	412A	Hugh Holmes	same	L.	
53	117	413	Samuel Dougan	same	L.	
54	118	414	Agnes Lee	same	L.	
55	119	415	Hugh Blair	same	L.	

APPEALS.—County of ARMAGH—*continued*

List Number.	Appeal Number.	Record Number.	TENANT.	LANDLORD.	Appellant.	OBSERVATIONS.
56	120	415A	Hugh Blair	Earl of Gosford	L.	
57	121	416	Francis Agnew	same	L.	
58	122	594	George Porter	same	L.	
59	123	595	John Sleeth	same	L.	
60	124	596	Robert Marshall	same	L.	
61	125	596A	same	same	L.	
62	126	596B	same	same	L.	
63	127	597	Alex. Burns, junr.	same	L.	
64	128	598	Alex. Burns, senr.	same	L.	
65	129	599	John Evans	same	L.	
66	130	599A	same	same	L.	
67	131	607	Anerim Marshall	same	L.	
68	132	607A	same	same	L.	
69	133	607B	same	same	L.	
70	134	608	Patrick M'Connell	same	L.	
71	135	609	Thomas Corr	same	L.	
72	136	610	Mary M'Cullagh	same	L.	
73	137	271	James Fergus	same	L.	
74	138	271B	same	same	L.	
75	139	271A	same	same	L.	
76	200		same	same	T.	
77	140	404	John M'Kown	same	L.	
78	141	405	James Armstrong	same	L.	
79	142	403	Thomas Scott	same	L.	
80	152	107	Robert Gardiner	Francis R. Cope	L.	
81	153	227	James Marshall	same	L.	
82	154	228	Lucinda Preston	same	L.	
83	155	229	Henry Lee	same	L.	
84	156	230	James M'Kittrick	same	L.	
85	157	231	James Kerr, Rep. of Edward Kerr.	same	L.	
86	158	232	Lucinda Preston	same	L.	
87	159	233	Ephraim Allen	same	L.	
88	160	334	James M'Kittrick	same	L.	
89	161	235	Sarah Rea	same	L.	
90	162	236	Lucinda Preston	same	L.	
91	163	238	Richard Allen	same	L.	
92	164	1,450	John Reilly	same	L.	
93	165	1,451	John M'Dowell	same	L.	
94	166	1,453	Felix Campbell	same	L.	
95	188	237	John Redmond	same	L.	
96	167	799	Robert Telford	Arthur N. Molesworth	L.	
97	168	806	Mary Mullan	same	L.	
98	169	805	Thomas M'Nicholl	same	L.	
99	170	803	John M'Bennett	same	L.	
100	171	802	Samuel Davidson	same	L.	
101	172	801	John Smith	same	L.	
102	173	809	George Davidson	same	L.	
103	174	808	James Rafferty	same	L.	
104	175	807	James Smith	same	L.	
105	176	94	James Teggart	John Jas. G. Lloyd	L.	
106	177	95	James Burrows	same	L.	
107	178	96	Thomas M'Dermont	same	L.	
108	179	98	Peter M'Loughlin	same	L.	
109	180	99	John Weir	same	L.	
110	181	101	Peter M'Bride	same	L.	
111	182	103	James Briars	same	L.	
112	183	104	Francis Toner	same	L.	
113	184	85	Peter Hamil	Henry B. Armstrong	L.	
114	185	83	James Gormley	same	L.	
115	186	84	Pattrick Mullon	same	L.	
116	187	280	Michael Vallely	Col. J. H. T. Thornton	L.	
117	189	225	Henry Carson	James Edgar	L.	
118	190	270	Anne J. Anderson	Capt. G. F. and J. Lowe	L.	Confirmed by consent.
119	191	284	Christopher Trainor	Rev. E. C. Hardy	L.	ditto.
120	192	286	John Prunty	same	L.	Settled on special consent.
121	193	244	Mansfield Newton	Julia E. M. Molyneux	L.	
122	194	245	William Watson	same	L.	
123	195	246	Robert Stoops	same	L.	
124	196	247	Joseph Stoops	same	L.	

APPEALS.—County of ARMAGH—*continued.*

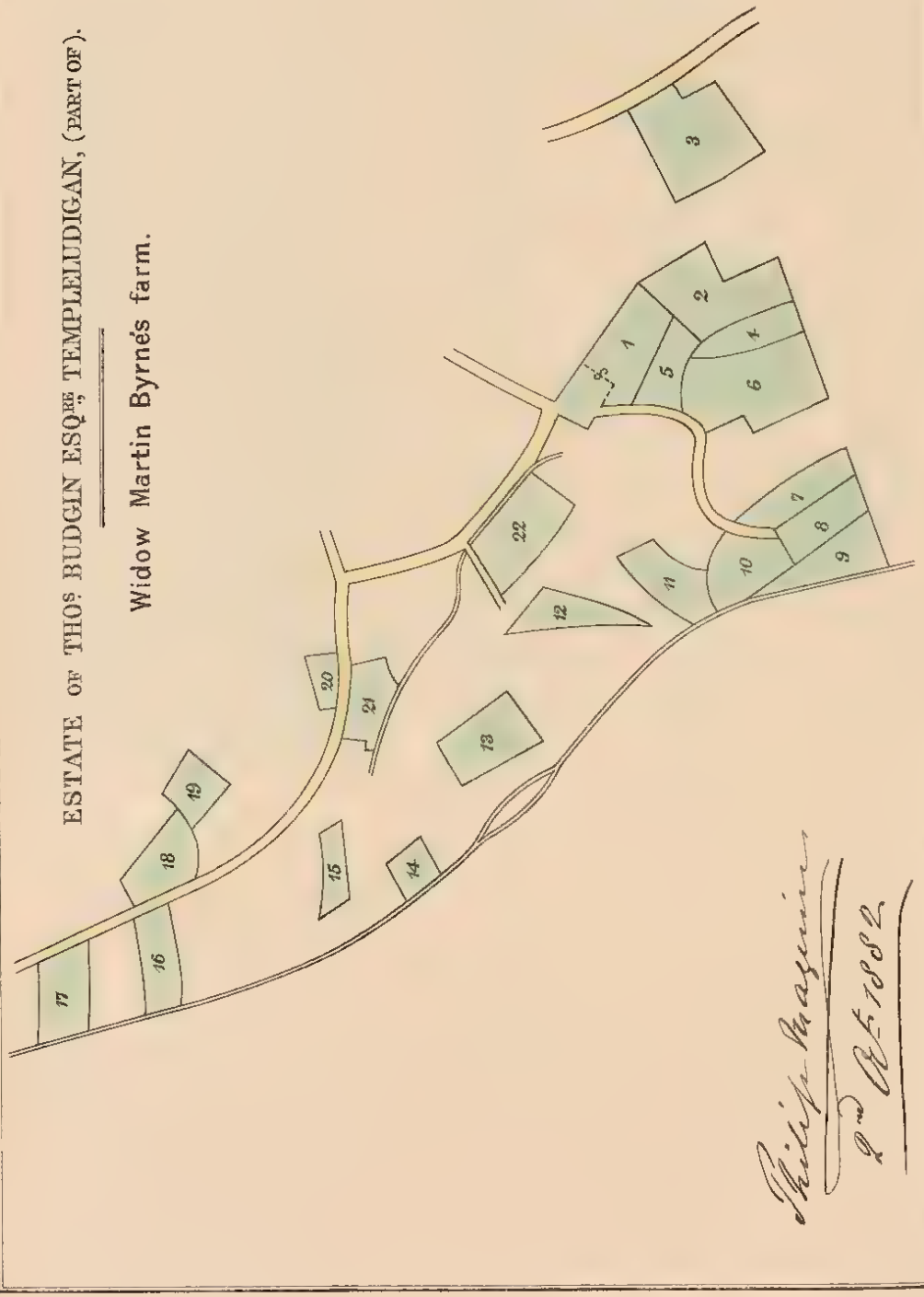
List Number.	Appeal Number.	Record Number.	TENANT.	LANDLORD.	Appellant.	OBSERVATIONS.
125	197	248	Thomas Stoops - -	Julia E. M. Molyneux -	L.	
126	198	249	Mansfield Newton -	- same - - -	L.	
127	199	250	Jane Armstrong - -	- same - - -	L.	
128	201	1,249	Patrick Moan - -	Rev. Richard Johnston	L.	
129	202	1,248	Mary M'Atasney -	- same - - -	L.	
130	203	289	Patrick M'Cann - -	John H. Parnell - -	L.	
131	204	290	Catherine Robinson -	- same - - -	L.	
132	205	291	Patrick M'Cann - -	- same - - -	L.	
133	206	224	Robert Henderson -	Andrew Hogg - -	L.	
134	207	220	Joseph Galbraith -	- same - - -	L.	
135	208	221	James Whitside - -	- same - - -	L.	
136	209	222	Esther Steele - -	- same - - -	L.	
137	210	223	Thomas Tate - -	- same - - -	L.	
138	211	252	James George - -	Rev. Walter Riddall and another, Trustees of John Scott.	L.	Settled.
139	212	253	Mary Saunderson, Administratrix of Joseph Saunderson.	- same - - -	L.	- ditto.
140	213	254	Charles Lappin - -	- same - - -	L.	- ditto.
141	214	255	John Lappin - -	- same - - -	L.	- ditto.
142	215	1,196	Alexander Jeffers -	Miss J. A. Atkinson -	L.	
143	216	1,200	James Jeffers - -	- same - - -	L.	
144	217	1,199	Francis Jeffers - -	- same - - -	L.	
145	218	1,195	Mary Kerr - - -	- same - - -	L.	
146	219	1,194	Thomas Patterson -	- same - - -	L.	
147	220	1,197	Robert Douglas - -	- same - - -	L.	
148	221	1,198	Maria Jeffers - -	- same - - -	L.	
149	222	1,059	Robert Dodds - -	Robert J. M'Geough -	T.	
150	226		- same - - -	- same - - -	L.	
151	223	1,426	Michael Doran - -	- same - - -	L.	
152	224	301	James Neville - -	- same - - -	L.	
153	225	1,057	John Cromwell - -	- same - - -	L.	
154	227	1,056	David Little - -	- same - - -	L.	
155	228	1,339	Mary Boyle - -	- same - - -	L.	
156	275	462	John Lowe - - -	- same - - -	L.	
157	276	463	- same - - -	- same - - -	L.	
158	277	457	Owen Kelly - -	- same - - -	L.	
159	278	458	James Loughran - -	- same - - -	L.	
160	279	461	William Rowland -	- same - - -	L.	
161	280	460	Samuel Burns - -	- same - - -	L.	
162	229	884	Farrell M'Ateer - -	James Bradley - -	L.	
163	230	883	William English - -	- same - - -	L.	
164	231	881	William Bredduar -	- same - - -	L.	
165	232	1,444	John Wilson - -	Captain R. M. B. Shelton.	L.	
166	233	1,443	William Lester - -	- same - - -	L.	
167	234	1,442	John Wilson - -	- same - - -	L.	
168	235	1,437	William Stewart - -	- same - - -	L.	
169	236	1,440	Moses Gillespie - -	- same - - -	L.	
170	237	1,439	- same - - -	- same - - -	L.	
171	238	1,438	- same - - -	- same - - -	L.	
172	239	1,441	William Stewart -	- same - - -	L.	
173	240	500	John Thompson - -	William Reed and Jas. J. K. Reed.	L.	
174	241	499	Bridget Murphy -	- same - - -	L.	
175	242	498	John Nugent - -	- same - - -	L.	
176	243	497	James Hale - -	- same - - -	L.	
177	244	503	William Bingham -	- same - - -	L.	
178	245	502	Mary Thompson - -	- same - - -	L.	
179	246	501	James Henry - -	- same - - -	L.	
180	247	506	James Crozier - -	- same - - -	L.	
181	248	505	John Henry - -	- same - - -	L.	
182	249	504	Thomas Boyle - -	- same - - -	L.	
183	250	494	James Craig - -	- same - - -	L.	
184	251	510	Thomas Murphy - -	- same - - -	L.	
185	252	509	William Meek - -	- same - - -	L.	
186	253	507	James Patterson - -	- same - - -	L.	

Appeals.—County of Armagh—*continued.*

List Number.	Appeal Number.	Record Number.	Tenant.	Landlord.	Appellant.	Observations.
187	254	633	John Lowe - - -	Trustees of James Eastwood.	L.	
188	500	645	Reps. of Bryan Gollogly	Charlotte F. Biggar -	L.	
189	301	637	Patrick Loughran -	- same - - -	L.	
190	255	529	Alexander Brown -	Archibald and Jas. Erskine.	T.	
191	274		- same - - -	- same - - -	L.	
192	256	464	George Blackwood -	Captain R. S. M'G. Bond.	L.	
193	257	465	John Gamble - -	- same - - -	L.	
194	258	467	James M'Mahon - -	- same - - -	L.	
195	259	470	Robert Hughes - -	- same - - -	L.	
196	260	471	James M'Willie - -	- same - - -	L.	
197	261	472	Robert Trimble - -	- same - - -	L.	
198	262	473	George Latimer - -	- same - - -	L.	
199	263	474	John Lyons - -	- same - - -	L.	
200	264	317	Eliza M'Kelvey - -	J. W. M'G. Bond -	L.	
201	265	318	- same - - -	- same - - -	L.	
202	266	319	John Sylvie - -	- same - - -	L.	
203	267	320	Sarah Clarke - -	- same - - -	L.	
204	268	321	Andrew M'Kee - -	- same - - -	L.	
205	269	322	Jackson Redmond -	- same - - -	L.	
206	270	398	Henry Byrne - -	- same - - -	L.	
207	271	399	Michael Carragher -	- same - - -	L.	
208	272	401	Patrick Carragher -	- same - - -	L.	
209	273	402	Richard Carragher -	- same - - -	L.	
210	281	611	Michael M'Keown -	Trustees of T. P. Ball -	L.	
211	282	612	Michael Quinn - -	- same - - -	L.	
212	283	613	Thomas Carragher -	- same - - -	L.	
213	284	614	Hugh M'Mahon - -	- same - - -	L.	
214	285	615	James Quinn - -	- same - - -	L.	
215	286	616	Michael Quinn - -	- same - - -	L.	
216	287	617	Mary Quinn - -	- same - - -	L.	
217	288	618	Peter Quinn - -	- same - - -	L.	
218	289	619	Reps. of Bryan Quinn -	- same - - -	L.	
219	290	620	James O'Hare - -	- same - - -	L.	
220	291	621	Daniel Moley - -	- same - - -	L.	
221	292	622	Reps. of Mary Moley -	- same - - -	L.	
222	293	623	Francis Lennon - -	- same - - -	L.	
223	294	624	Michael M'Mahon -	- same - - -	L.	
224	295	625	Francis Lennon, sen. -	- same - - -	L.	
225	296	627	Mary M'Mahon - -	- same - - -	L.	
226	297	628	Peter O'Hanlon - -	- same - - -	L.	
227	298	629	Patt Lafferty - -	- same - - -	L.	
228	299	630	John M'Mahon - -	- same - - -	L.	

ESTATE OF THOS BUDGIN ESQRE, TEMPLELUDIGAN, (PART OF).

Widow Martin Byrnes farm.



Appendix B.

M A P

Handed in by Mr. *Thomas Baldwin*, 7 May 1883.—(*See* opposite.)

Reference to Map.

	Irish. A.	R.	P.		s.	d.		£.	s.	d.
No. 1	1	3	0	at	22	–	=	1	16	9
No. 2	1	2	0	„	22	–	=	2	4	–
No. 3	3	0	0	„	22	6	=	3	7	6
No. 4	1	1	0	„	22	–	=	1	7	6
No. 5	1	0	0	„	22	–	=	1	2	–
No. 6	3	0	0	„	23	–	=	3	9	–
No. 7	1	1	0	„	8	–	=	–	10	–
No. 8	1	0	0	„	2	–	=	–	2	–
No. 9	1	1	0	„	5	–	=	–	6	3
No. 10	1	0	0	„	5	–	=	–	5	–
No. 11	1	0	0	„	10	–	=	–	10	–
No. 12	0	3	0	„	10	–	=	–	7	6
No. 13	1	2	0	„	20	–	=	1	10	–
No. 14	0	1	0	„	5	–	=	–	1	3
No. 15	0	2	0	„	15	–	=	–	7	6
No. 16	1	0	0	„	15	–	=	–	15	–
No. 17	1	1	0	„	15	–	=	–	18	9
No. 18	1	0	0	„	2	6	=	–	2	6
No. 19	0	3	0	„	12	–	=	–	9	–
No. 20	0	2	20	„	12	–	=	–	7	6
No. 21	1	0	10	„	22	–	=	1	3	4
No. 22	2	0	0	„	23	–	=	2	6	–
Total	27	2	30					£. 23	8	4

Appendix C.

SKETCH

Handed in by Mr. *Hunt Chambre*, and referred to in his Evidence, 8 May 1883.
(*See* opposite.)

See Question 1704.

No. 2 is equal to No. 3 in value, and much better than No. 1.

No. 4 is as good as No. 6, and has turbary attached to it.

No. 5 is better than No. 6.

No. 7 is the farm alluded to in my answer to Question 1769.

No. 8, adjoining No. 7, is cut out bog, let by me 10 days before the Commission sat (which reduced No. 7 to 5 *s.* 6 *d.*), at 10 *s.* per acre, and since then I have let about 30 acres similar at 10 *s.*

Hunt W. Chambre.

SKETCH

Referred to in the Evidence of Mr. Hunt Chambre.

Scale, Six inches to One Statute Mile

Chains 0 10 20 30 40 50 60 Chains